



BOARD OF BEHAVIORAL SCIENCES
1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834
Telephone (916) 574-7830
TDD (916) 322-1700
Website Address: <http://www.bbs.ca.gov>



MEETING NOTICE

Policy and Advocacy Committee June 28, 2006

Sheraton Gateway LAX
6101 West Century Boulevard
Los Angeles, CA 90045

12:30 p.m. – 3:30 p.m.

- I. Introductions
- II. Review and Approval of January 20, 2006 Committee Meeting Minutes
- III. Review and Approval of April 19, 2006 Committee Meeting Minutes
- IV. Strategic Plan Goal #4 – Report on Progress
 - A. Objective 4.1 -- Participate in 15 public policy forums throughout the State addressing access to mental health services by June 30, 2010.
 - B. Objective 4.2 -- Develop 4 proposals related to behavioral science licensing law that address delivery of services to consumers in light of demographic changes in both the general and licensee populations by December 31, 2007.
 - C. Objective 4.3 -- Advocate for 5 laws that expand access to mental health services by June 30, 2010.
- V. Review and Possible Action on Pending Legislation
- VI. Update on Rulemaking Activity.
- VII. Discussion and Possible Action on Increasing Transparency of Licensure for Marriage and Family Therapists.
- VIII. Review and Possible Action on Draft Regulations Related to Supervisor Qualifications [16CCR1833.3 & 16CCR1870].
- IX. Review and Discussion Regarding the Reporting of Malpractice Judgments, Settlements, and Arbitrations
- X. Review and Possible Action on Technical Regulation Cleanup Related to LEP and Board Administration Statutory Changes.
- XI. Review and Possible Action on Regulations Regarding Abandonment of Application Files (16CCR1806 & 1833.3).

XII. Suggestions for Future Agenda Items.

Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Items will be considered in the order listed. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.

THIS AGENDA AS WELL AS BOARD MEETING MINUTES CAN BE FOUND ON THE BOARD OF BEHAVIORAL SCIENCES WEBSITE AT www.bbs.ca.gov

NOTICE: The meeting facilities are accessible to persons with disabilities. Please make requests for accommodations to the attention of Christina Kitamura at the Board of Behavioral Sciences, 1625 N. Market Boulevard, Suite S-200, Sacramento, CA 95834, or by phone at 916-574-7835, no later than one week prior to the meeting. If you have any questions please contact the Board at (916) 574-7830.

Item II

Blank Page



BOARD OF BEHAVIORAL SCIENCES
1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834
Telephone (916) 574-7830
TDD (916) 322-1700
Website Address: <http://www.bbs.ca.gov>



***DRAFT* Meeting Minutes**
Policy and Advocacy Committee
January 20, 2006

Junipero Serra State Building
320 W. Fourth Street, Pacific Ocean Conference Room
Los Angeles, CA 90013

I. Introductions

Meeting called to order at 1:30 p.m., and a quorum was established.

Committee Members Present:

Robert Gerst
Ian Russ
Karen Pines
Peter Manoleas

Staff Present:

Paul Riches, Executive Officer
Mona Maggio, Assistant Executive Officer

II. Strategic Plan Goal #4 – Report on Progress

A. Objective 4.1 -- Participate in 15 public policy forums throughout the State addressing access to mental health services by June 30, 2010.

The committee reviewed the objective and inquired regarding the distinctions between events under this objective and other events under Goal #2. Staff responded that events for this objective will be focused on policy making rather than building public and professional awareness of the Board. An example of possible subject matter includes Proposition 63 related meetings.

Dr. Russ requested that staff send a list of examples of events we have identified or might consider attending.

B. Objective 4.2 -- Develop 4 proposals related to behavioral science licensing law that address delivery of services to consumers in light of demographic changes in both the general and licensee populations by December 31, 2007.

Staff reported on a board sponsored conference on the connection of diversity and professional licensing issues. The conference is tentatively scheduled for April 28, 2006 in Sacramento. Staff has commitments from two presenters [Joe Hayes, a demographer with the Public Policy Institute of California, Rachel Guerrero of the Department of Mental Health] and is seeking an academic to address the research supporting a connection between cultural competence and

quality of care. Mr. Manoleas and staff are developing an initial list of invitees and welcome suggestions from board members or the public. Mr. Janlee Wong (representing NASW) informed the Committee of a possible conflict on the target date because of a planned meeting of CALSWEC.

The conference will be a combination of presentations and breakout sessions designed to develop the board's perspective on cultural competence and professional practice.

The board will notify other mental health agencies, consumer boards, and the BBS interested parties list.

C. Objective 4.3 -- Advocate for 5 laws that expand access to mental health services by June 30, 2010.

III. Review and Possible Action Regarding Loan Repayment/Scholarship Program Implementation

Staff indicated that the board has received no response to inquiries regarding the status of the program. Mary Riemersma (representing CAMFT) stated she served on a committee that developed draft regulations for the loan repayment and is unaware of any other activity to date. The program has not been placed on any future agenda for future meetings of the foundation. Mr. Gerst suggested the EO draft a letter on behalf of the Board as to the status of the regulations.

Motion: Recommend that the board direct staff to draft a letter to the appropriate authority requesting implementation of the program at the earliest possible date.

Motion Passed: 4-0.

IV. Informational Hearing on Proposed Changes to Title 16, Section 1803 Regarding the Delegation of Authority to the Executive Officer

Staff indicated that the Board directed staff to move forward with the proposed regulation at its November 2005 meeting. However, staff brought the proposal back for additional comment because a number of parties were unable to participate in that portion of the November meeting.

Dr. Russ stated that there is conflict with a member of the Board giving the authority for a psychiatric evaluation because the board is a quasi-judicial entity. Mary Riemersma (CAMFT) questioned whether the board has the authority to take this action and give broad authority to the executive officer. Mr. Riches reported he discussed this issue with legal counsel who recommends the proposal because a psychiatric evaluation is part of the investigative process. Accordingly, a Board member who signs the petition to compel a psychiatric evaluation would have to recuse himself/herself from the deliberation/decision were the subject to be disciplined.

Staff discussed the circumstances in which the Board typically seeks to compel a psychiatric evaluation. The EO discussed the confidentiality of the investigative process and indicated that individuals who are subject to a psychiatric evaluation that reveals substantial impairment usually surrender their license.

The committee indicated continuing support for the proposed change in regulation.

V. Informational Hearing on Proposed Changes to Title 16, Section 1886 Regarding the Issuance of Citations to Continuing Education Providers

Mr. Gerst provided a brief overview of this issue. The EO stated that at the November 2005 Board meeting, the Board moved for this proposal to move forward; however, it was discussed late in the day and some interested parties did not have the opportunity to provide comment.

Ms. Pines shared her experience with a self-study continuing education (CE) course and is appalled that a provider can give a day's worth of CE credit based on "skimpy" material. She supports allowing the issuance of citations against CE providers. Mr. Gerst clarified that currently the Board can only revoke a provider's license. Peter asked if it would be appropriate/legal for a peer review of coursework developed and used by providers. Staff indicated that the Consumer Protection Committee is working on developing a quality standard for CE. Violations involving CE provider compliance with administrative issues (advertising, accounting procedures, recordkeeping, etc.) would not likely be appropriate for a revocation proceeding and would be best addressed by an intermediate sanction such as a citation and fine.

Ms. Riemersma questioned what the Board would do about an entity that is not required to become a provider, such as a school, how would we take enforcement action if the school is in violation?

Ms. Riemersma suggested that mere contact from the Board, such as a letter saying it has come to our attention that you are not keeping accurate records, would be sufficient to bring the entity into compliance.

Mr. Janlee Wong indicated support for the proposed regulation.

The Committee engaged in a discussion of self study CE and the appropriateness of evaluating course content. This discussion raised the issue of how to determine appropriate credit hours for self-study courses.

Ms. Riemersma questioned whether the Board has the authority to issue a citation to a CE provider. CE providers are not "licensed" in the traditional sense. Staff indicated that counsel has determined that the Board's approval of a provider is a "license" within the meaning in the Business and Professions Code.

Mr. Manoleas suggested that for quality improvement, the Board should set criteria for what constitutes a violation under which a citation would be appropriate and criteria for revocation of a license.

Mr. Gerst recommended that the Board solicit issues relating to CE's from licensees.

The Committee indicated its support for proceeding with the proposed regulation.

VI. Informational Hearing on Proposed Changes to Title 16, Sections 1833.1 and 1870 Regarding Supervisor Qualifications

In February 2003, the Board approved going forward with these regulations. The Governor put a hold on regulations in 2004. Staff identified this matter had not gone forward, and the matter is now back before the Committee for discussion.

The committee discussed the proposed language from 2003 and the revisions to the proposed language prepared in 2006.

The committee discussed that there are good supervisors who have two or three supervisor who do not provide 5 hours of supervision and would not meet the criteria. Mary shared the same concern about educators who provide supervision but do not have time to have a practice. Audience members prefer the 2003 version vs the 2006 version.

Mr. Manoleas requested no action be taken until such time as the Committee has received the results of the supervision survey and had an opportunity to review the results and analysis of its findings. The committee supports going forward with the 2003 version of the proposed regulations, and eliminate 5 hour requirement. This matter will be revisited at the next Committee meeting.

VII. Review and Possible Action on Pending Legislation

Staff provided an update on Assembly Bill 894 (LaSuer). This legislation would license professional counselors in California. The bill was held on the Suspense File by the Assembly Appropriations Committee on February 18, 2006.

Ms. Krista Scholton stated there is a grassroots movement to seek licensure for macro social workers. Staff referred her to the Consumer Protection Committee which is evaluating broader social work licensure.

VIII. Review and Possible Action to Sponsor Legislation to Allow Demographic Survey of Board Licensees

Mr. Gerst summarized the legal opinion provided by Board counsel which indicates that the board may request licensees to provide demographic information and asked the Committee if it supported a survey of Board licensees to obtain such information.

Mr. Wong thanked Mr. Manoleas and staff for supporting this and moving forward with the survey. The social work community has desired this information for a number of years.

Mr. Manoleas asked if we could obtain information from applicants on a voluntary basis, similar to how the state asks this information on employment applications. Staff indicated that the Board could not include such an item on a license application without additional statutory authority.

Motion: Recommend that the Board direct staff to conduct a demographic survey of the Board's licensees and that the information gathered will be strictly voluntary and not individually identifiable.

Motion Passed: 4-0

IX. Discuss Proposal to Reorganize the Statutes Governing Marriage and Family Therapy

Staff indicated that the proposal has been submitted for inclusion in the Senate Business and Professions Committee's annual committee bill. As part of the submission, the Board has requested that Legislative Counsel conduct a search of the Codes to provide those sections that need to be amended to conform with the reorganization.

X. Dates for Future Committee Meetings

The Committee established the following dates for future meetings:

April 19, 2006
June 28, 2006
September 27, 2006
January 3, 2007

Meeting Adjourned at 3:35 p.m.

Blank Page

Item III

Blank Page



BOARD OF BEHAVIORAL SCIENCES
1625 N. Market Blvd., Suite S-200, Sacramento, CA 95834
Telephone (916) 574-7830
TDD (916) 322-1700
Website Address: <http://www.bbs.ca.gov>



Draft Meeting Minutes

Policy and Advocacy Committee

April 19, 2006

Department of Consumer Affairs
1625 N. Market Boulevard, Second Floor
El Dorado Conference Room
Sacramento, CA 95834

Committee Members Present

Ian Russ
Peter Manoleas
Karen Pines

Staff Members Present

Paul Riches
Mona Maggio
Christy Berger
Christina Kitamura

I. Introductions

The meeting was called to order at approximately 10:30 a.m. Christina Kitamura called the roll and a quorum was established.

II. Strategic Plan Goal #4 – Report on Progress

Mr. Riches provided an update on the status of strategic plan objectives 4.1 - 4.3 as outlined in the meeting materials.

A number of questions were raised regarding implementation of stipend support for mental health students and loan forgiveness programs under the Mental Health Services Act (MHSA).

Dr. Russ recommended that Board staff review course requirements for licensure as a marriage and family therapist. Ms. Mary Riemersma, representing the California Association of Marriage and Family Therapists (CAMFT), stated that such a review is timely because curriculum and licensing requirements must change to adjust to changing times.

Ms. Pines recommended that Board staff attend meetings of the Mental Health Services Oversight and Accountability Commission to stay abreast of the implementation of the MHSA.

III. Update and Possible Action Regarding Loan Repayment/Scholarship Program Implementation

Mr. Riches provided an update on the board's efforts to stimulate implementation of the AB 938 loan repayment program. Board staff is working with the Health Professions Education Foundation (Foundation) staff on draft regulations required to implement the program.

Mr. Riches introduced Ms. Robyn Boyer who was recently appointed as executive officer at the Foundation. Ms. Boyer provided a brief overview of the Foundation's purpose and direction in supporting increased access to care in underserved communities. Ms. Boyer indicated that there was a significant delay in implementing the AB 938 program, but that it was a top priority for the Foundation.

Mr. Riches informed the committee that in the process of developing the draft regulations the Foundation's attorney identified a deficiency in the underlying statute that would prevent associate clinical social workers (associates) and marriage and family therapist interns (interns) from participating in the loan repayment program. Interns and associates are key populations in the effort to steer licensed professionals into public service and underserved communities and their exclusion from the program would not be consistent with its stated purpose. Board staff has developed proposed legislation that would remedy this problem and has agreement from Assemblyman Leland Yee (author of AB 938) to include the required language in legislation this year.

Mr. Manoleas moved, and Ms. Pines seconded, that the committee recommend that the board sponsor legislation to allow interns and associates to participate in the AB 938 program. The committee approved the motion.

IV. Review and Possible Action on Pending Legislation and Update on Rulemaking Activity.

Ms. Berger updated the committee on the pending reorganization of the statutes approved by the board at the February meeting. The language will be amended into Senate Bill 1475 (Figueroa) and is expected to be heard by the Senate Business and Professions Committee on April 24.

AB 525: Child Abuse Reporting.

Ms. Berger provided a summary of the bill. The bill adds child emotional abuse to the definition of "child abuse and neglect", and the bill also clarifies that reporting of child emotional abuse is not mandatory.

Ms. Riemersma stated that physical abuse, sexual abuse, and unjustifiable mental suffering are subject to mandatory reporting. However, emotional abuse is not well defined in current law and current law permits reporting but does not require it.

Dr. Russ clarified that although current law relating to emotional abuse is permissive, reporters who elect to report suspected emotional abuse are protected in the same manner as individuals making mandated reports of suspected abuse.

Mr. Janlee Wong, representing the National Association of Social Workers - California Chapter (NASW), voiced concerns about the ability of many mandated reporters to recognize potential "emotional abuse."

Dr. Russ moved that the Board support AB 525. Ms. Pines seconded and the Committee concurred to support AB 525.

AB 2003: Comprehensive Pupil Learning Support Program.

Ms. Berger provided a summary of the bill. The bill establishes a new program that includes using revenue derived from the MHSA to provide mental health services on school campuses.

Ms. Geri Esposito representing the California Society of Clinical Social Work, Mr. Wong and Ms. Riemersma all indicated their opposition to the bill based on the redirection of MHSA revenue. MHSA funding has specific purposes under the act and those purposes should be the sole use of the funding.

Ms. Pines moved, and Mr. Manoleas seconded, that the Board take no position on Assembly Bill 2003. The committee approved the motion.

AB 2257: Psychologists: Record Retention

Ms. Berger provided a summary of the bill. The bill specifies how long psychologists must retain patient records. Current law does not specify how long records must be retained by psychologists or licensees of the board. Staff recommended that the board not take a position on the bill.

Ms. Riemersma indicated that the retention period for therapy records for minors was impracticably long.

Dr. Russ moved, and Mr. Manoleas seconded, that the committee recommend that the board take no position on AB 2257. The committee approved the motion.

AB 2283: Physicians and Surgeons: Ethnicity and Language Proficiency

Ms. Berger provided a summary of the bill. The bill would require the Medical Board of California to disclose specified individual physician demographic information on its website.

Dr. Russ moved, and Mr. Manoleas seconded, that the committee recommend that the board support AB 2283. The committee approved the motion.

AB 2328: Agency Fiscal Reports

Ms. Berger provided a summary of the bill. The bill generally requires reporting specific fiscal and program information to the Legislature on an annual basis.

Mr. Riches explained that the Board already reports extensive oversight data through the sunset review process. The bill will require the expenditure of significant staff time. The bill is very similar to bills that were not successful in previous legislative sessions.

Dr. Russ, and Ms. Pines seconded, that the committee recommend no position to the Board. The committee approved the motion.

AB 2357: Outpatient Mental Health Treatment

Ms. Berger provided a summary of the bill. The bill eliminates the sunset provision in "Laura's Law" which allows for court ordered outpatient mental health treatment. Staff recommended taking no position on the bill.

Ms. Esposito, representing the California Society for Clinical Social Work, indicated that this law is quite controversial.

Dr. Russ moved, and Ms. Pines seconded, that the committee recommend that the board take no position on AB 2357. The committee approved the motion.

AB 2404: State Reports: Declarations

Ms. Berger provided a summary of the bill. The bill is a follow-up to 2005 legislation that would have required the reports to the Legislature be signed by the head of an agency under penalty of perjury. That bill was vetoed. This bill requires that reports to the Legislature be signed by the head of the agency including the notation that the report, to the best of his or her knowledge, is accurate and complete. Staff recommended taking no position on the bill.

Dr. Russ moved, and Ms. Pines seconded, that the committee recommend that the board take no position on AB 2404. The committee approved the motion.

AB 2420: Collection on Demographic Data

Ms. Berger provided a summary of the bill. The bill would require state agencies collecting demographic information to include specified categories of ancestry in those surveys.

Mr. Riches indicated that staff is making no recommendation on the bill. It was presented to the committee for informational purposes.

Dr. Russ moved, and Ms. Pines seconded, that the committee recommend that the board take no position on AB 2420. The committee approved the motion.

AB 2428: Public Meetings

Ms. Berger provided a summary of the bill. The bill would permit state agencies to require that members of the public disclose specified information as a condition of participating in public meetings of that agency.

Mr. Riches recommended that the board oppose the bill. A primary function of the board is to provide a public forum for discussion of issues relevant to the board's jurisdiction and this bill is fundamentally contrary to that purpose.

Dr. Russ moved, and Ms. Pines seconded, that the committee recommend that the board oppose AB 2428. The committee approved the motion.

AB 3013: Medical Information: Disclosures

Ms. Berger provided a summary of the bill. The bill would prevent psychotherapists from disclosing general mental health information regarding a patient.

Ms. Riemersma indicated that the bill was amended in committee to parallel provisions in the Health Insurance Portability and Accountability Act.

Ms. Pines moved, and Mr. Manoleas seconded, that the committee recommend that the board support AB 3013. The committee approved the motion.

SB 1228: Covenant Marriage

Ms. Berger provided a summary of the bill. The bill establishes a new type of marriage that requires counseling prior to marriage and prior to a divorce.

Mr. Riches stated that the bill specifies who is permitted to provide the required counseling and that some of the categories were unclear and therefore problematic.

Dr. Russ moved, and Ms. Pines seconded, that the committee recommend that the board oppose SB 1228. The committee approved the motion.

SB 1615: State Agencies: Collection of Data: Ancestry or Ethnic Origin

Ms. Berger provided a summary of the bill. The bill would require state agencies collecting demographic information to comply with federal standards for collecting that information.

Dr. Russ moved, and Ms. Pines seconded, that the committee recommend that the board take no position on SB 1615. The committee approved the motion.

V. Review of Comments Submitted on Proposed Changes to Title 16, Section 1803.

Mr. Riches provided a brief overview of the proposed regulation and indicated that a letter from CAMFT articulating objections to the proposed regulation was included in the meeting materials as was a response from the board's counsel. The proposed regulation would delegate the authority to issue a petition to compel a physical or mental health evaluation of a board licensee to the executive officer. Mr. Riches recommended that the language of the proposed regulation be altered to more closely parallel the language in Section 820 of the Business and Professions Code in response to written comments submitted by CAMFT.

Ms. Riemersma reiterated CAMFT's objections to the proposed regulation as provided in their written comments.

Ms. Esposito and Mr. Wong stated their objections to the proposed regulation because the judgment should be made by a clinician.

Dr. Russ moved, and Ms. Pines seconded, that the committee recommend that the board amend and adopt the proposed regulation to parallel Business and Professions Code 820. The committee approved the motion.

VI. Review and Possible Action Regarding Statutes and Regulations for Out-of-State Applicants for Clinical Social Work Licensure.

Mr. Riches described a staff recommended proposal to allow individuals licensed as clinical social workers in other states for at least four years to immediately qualify for the California licensure exams. The proposal would require those candidates to complete the required education courses specified in California law and have a clean disciplinary record in any state in which they have been licensed. The proposal would also allow individuals licensed in other states for less than four years to credit a portion of their professional practice towards the 3200 hours of supervised experience required to qualify for the California licensure exams.

Mr. Riches indicated that the board has received a number of complaints regarding the current requirements for out-of-state licensees to become licensed in California (including a letter from a candidate included in the committee meeting materials). In response to this input, staff reviewed the current requirements and developed this proposal. Staff believed that it was reasonable to allow the substitution of licensed practice experience for supervised experience as an associate clinical social worker in qualifying for the licensure examinations. The proposal still requires passage of both the standard written and the clinical vignette examinations before granting a license.

Mr. Janlee Wong indicated support for the proposal. Mr. Wong indicated that it could help address the ongoing shortage of social workers in California.

Ms. Esposito indicated her support for the proposal. Ms. Esposito indicated that it reduced the barriers to entry in California while preserving the requirement to pass the California licensure examinations.

Ms. Pines moved, and Dr. Russ seconded, to recommend that the Board sponsor legislation consistent with the staff proposal. The committee approved the motion.

VII. Review and Possible Action on Public Disclosure and Complaint Disclosure Policies.

Mr. Riches provided the committee with a summary of recent activity regarding the disclosure of public records including Executive Order S-03-06. The Executive Order requires each agency to review, and revise as necessary, policies relating to the disclosure of public records. A review of the board's current policies revealed two issues that staff recommends be addressed by the committee. The first is a five year limitation on the disclosure of citations issued by the board. The second is the omission of settlements and arbitrations exceeding \$10,000 that are required to be reported to the board by licensees and insurers.

Ms. Barbara Murphy, a member of the public, addressed the Committee and requested that the board's Public Disclosure Policy be altered to require reporting of settlements and arbitrations and suggested that the dollar thresholds for reporting be lowered.

Ms. Riemersma questioned why the five year limitation on the disclosure of citations was problematic. Mr. Riches indicated that the California Public Records Act presumes that all government documents are available to the public unless they fall into specific exempt categories and the citations are not included in existing exemptions.

Dr. Russ suggested that Board staff investigate the issues raised by Ms. Murphy including practices by other boards and to explore methods to increase compliance with existing reporting requirements.

Dr. Russ moved, and Ms. Pines seconded, that the committee recommend that the board amend its public disclosure policy consistent with the staff proposal. The committee approved the motion.

VIII. Review and Possible Action Regarding Regulations Governing Pre-License Supervision Requirements.

Mr. Riches indicated that this item was carried over from the previous committee meeting. In 2003 the board had directed staff to revise the regulations governing supervisor qualifications. This proposal was delayed by the rulemaking moratorium put in place when Governor Schwarzenegger assumed office. Staff brought the proposal back to the committee for discussion in January. Based on the discussions in January staff revised the proposed language and is requesting that the committee recommend that the board pursue the rulemaking.

The staff proposal allows supervisors to count time spent supervising towards the requirement for having practiced psychotherapy and eliminates the requirement that individuals supervising marriage and family therapy interns have had five hours of patient contact per week.

Dr. Russ moved, and Ms. Pines seconded, that the committee recommend that the Board pursue a rulemaking consistent with the staff proposal. The committee approved the motion.

IX. Review and Possible Action Regarding Amendments to Sections 1833.1 and 1870 Regarding Supervisor Qualifications.

Item IX was a duplicate of Item VIII and no discussion occurred.

At 2:15 p.m., Ms. Pines left the meeting.

X. Review and Possible Action Regarding Recognition of Specialization in Dual Diagnoses by BBS Licensees and Certified Drug Abuse Counselors.

Noting the absence of a quorum, Mr. Riches and Mr. Manoleas provided a history of the discussions with the Department of Alcohol and Drug Programs that lead to the development of this concept. Dr. Russ and Mr. Manoleas discussed the possibility, in concept, of establishing a title protection law for board licensees and certified drug abuse counselors with additional training in dual diagnosis situations.

Ms. Riemersma, Ms. Esposito and Mr. Wong registered significant concerns with the concept.

XI. Suggestions for Future Agenda Items.

There were no suggestions for future agenda items.

The meeting adjourned at approximately 2:50 p.m.

Blank Page

Item IV

Blank Page

**State of California
Board of Behavioral Sciences**

Memorandum

To: Policy and Advocacy Committee

Date: June 19, 2006

**From: Paul Riches
Executive Officer**

Telephone: (916) 574-7840

Subject: Strategic Plan Update

Background

The board formally adopted the new strategic plan at its November 2005 meeting. As part of the implementation of the strategic plan, each committee will receive a progress update on the strategic objectives under its jurisdiction. This regular exchange of information provided will provide mutual accountability between staff and board members in accomplishing our shared objectives.

Update on Objectives

Objective 4.1 -- Participate in 15 public policy forums throughout the State addressing access to mental health services by June 30, 2010.

On March 23-24, 2006 Mr. Riches attended the meeting of the Mental Health Services Oversight and Accountability Commission in Sacramento (commission). The commission is responsible for oversight of the Mental Health Services Act (Proposition 63). The meeting included organizational matters for the commission and presentations on prevention and early intervention in mental illness which is a major focus of Proposition 63.

The board will be actively participating with the MHSA Education and Training initiative. This initiative will be developing the plan for spending MHSA revenues dedicated to building the mental health workforce. This initiative has an advisory group (where the board is represented by Peter Manoleas) which has formed nine workgroups to write elements of the plan. The board is actively participating in the following workgroups:

1. Needs Assessment [Mona Maggio]
 6. Distance Learning [Christy Berger]
 8. Post Secondary Education and Training [Judy Johnson]
 9. Licensing and Certification [Paul Riches]
- On June 12, 2006 Ms. Maggio attended the initiative's Needs Assessment workgroup.
 - On June 28, 2006 Ms. Berger will attend the Distance Learning workgroup.
 - On July 6, 2006, Ms. Johnson will attend the Post-Secondary Education/Training workgroup.
 - On July 12, 2006, Mr. Riches will attend the Licensing and Certification workgroup.
 - On July 19, 2006, Mr. Manoleas will attend the Advisory Committee meeting.

These workgroups will be conducting meetings on an ongoing basis to develop the draft plan.

Objective 4.2 -- Develop 4 proposals related to behavioral science licensing law that address delivery of services to consumers in light of demographic changes in both the general and licensee populations by December 31, 2007.

A board sponsored conference on diversity issues in professional licensing will be held on Friday, April 28 in Sacramento. The conference will feature state and national experts in demography and cultural competence in mental health care as well as working sessions designed to provide feedback and suggestions for the board's consideration. A report on the conference was provided at the May 18-19, 2006 board meeting. Staff is working through suggestions from that conference to begin developing proposals for board committees to consider.

Objective 4.3 -- Advocate for 5 laws that expand access to mental health services by June 30, 2010.

No action to report.

Item V

Blank Page

Memorandum

To: Policy and Advocacy Committee

Date: June 19, 2006

From: Christy Berger
Legislation Analyst

Telephone: (916) 574-7847

Subject: V. Review and Possible Action on Pending Legislation

Board-Sponsored Legislation

SB 1475 (Figueroa) Reorganization of LEP and Administration Statutes

This bill would reorganize and revise the Board's Administration statutes for clarity, remove obsolete provisions, and make some minor refinements. This bill would also reorganize and revise the Licensed Educational Psychologist (LEP) statutes to remove obsolete provisions, modernize statutes relating to licensure, scope of practice, continuing education, and enforcement, and would create better consistency with the Board's other practice acts. We expect these provisions to be amended into SB 1475 very soon.

AB 1852 (Yee) Licensed Mental Health Service Provider Education Program

This bill would make marriage and family therapist interns (MFT interns) and associate clinical social workers (ASW) eligible for educational loan repayment from the Licensed Mental Health Service Provider Education Program (Program). This bill would also provide technical cleanup of the Program's statute. This bill will be heard by the Senate Health Committee on June 21, 2006. Staff continues to have ongoing discussions with the Office of Statewide Health Planning and Development (OSHPD) to ensure other needed changes are in place by the end of this year.

Update on Other 2006 Legislation

AB 525 (Chu) Child Abuse Reporting

This bill was originally brought before the Policy and Advocacy Committee for review at its April 2006 meeting. The Committee voted to recommend that the Board take a position of "support" on this bill. However, due to a staff error, this bill never went before the full Board for a vote. This bill, sponsored by the California Association of Marriage and Family Therapists (CAMFT), would add emotional abuse to the definition of child abuse, clarify that such a report is not mandatory, (though one reading of the bill is that it would make such a report mandatory), and establishes some technical requirements regarding the report. This bill was recently passed by the Senate Public Safety Committee, and will be heard next by the Senate Appropriations Committee.

AB 2283 (Oropeza) Physicians and Surgeons: Cultural Background and Foreign Language Proficiency

Physicians are currently permitted to report information regarding their cultural background and foreign language proficiency at the time of license renewal to the Medical Board of California (MBC). This bill would require the MBC to aggregate this information and report it on their website, making it more accessible to consumers. The Board voted to support this bill, which is

scheduled for hearing on June 26, 2006 in the Senate Business, Professions, and Economic Development Committee.

AB 3013 (Koretz) Medical Information: Disclosures

This bill would strengthen patient confidentiality laws by conforming California law to provisions of HIPAA which limit the release of patient information, provide the patient the opportunity to prohibit such a release, and permit the health care provider to make judgments regarding releases in emergency situations. The Board voted to support this bill, which has been referred for hearing to the Senate Judiciary Committee.

SB 1476 (Figueroa) BBS Sunset

This bill would extend the Board's sunset date by one year to July 1, 2009. It has passed the Senate and is now awaiting assignment to committee in the Assembly.

Attachments

AB 1852

Analysis of AB 525

AB 525

Attachment A

Blank Page

AMENDED IN SENATE JUNE 19, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

AMENDED IN ASSEMBLY APRIL 27, 2006

AMENDED IN ASSEMBLY APRIL 24, 2006

AMENDED IN ASSEMBLY MARCH 1, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1852

**Introduced by Assembly Member Yee
(Principal coauthor: Assembly Member Maze)**

January 12, 2006

An act to amend Sections 128454 and 128456 of the Health and Safety Code, relating to mental health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1852, as amended, Yee. Licensed—mental health service provider education program. *Mental Health Service Provider Education Program.*

Existing law requires the Office of Statewide Health Planning and Development to establish a nonprofit public benefit corporation known as the Health Professions Education Foundation to perform various duties with respect to implementing health professions scholarship and loan programs.

Existing law establishes the Licensed Mental Health Service Provider Education Program, and requires the foundation to develop the program to provide grants to licensed mental health service providers, as defined, who provide direct patient care in a publicly

funded facility or a mental health professional shortage area, as defined.

Existing law requires the foundation to solicit the advice of representatives of specified agencies and officials, including, but not limited to, the Board of Behavioral Science Examiners.

This bill would revise the definition of “licensed mental health care practitioner” *service provider*” for this purpose, to additionally include a *registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting or employed pursuant to a State Department of Mental Health waiver*, marriage and family therapist intern, and an associate clinical social worker, and would make a technical, nonsubstantive change.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 128454 of the Health and Safety Code
2 is amended to read:

3 128454. (a) There is hereby created the Licensed Mental
4 Health Service Provider Education Program within the Health
5 Professions Education Foundation.

6 (b) For purposes of this article, the following definitions shall
7 apply:

8 (1) “Licensed mental health service provider” means a
9 psychologist, *registered psychologist, postdoctoral psychological*
10 *assistant, postdoctoral psychology trainee employed in an*
11 *exempt setting or employed pursuant to a State Department of*
12 *Mental Health waiver*, marriage and family therapist, marriage
13 and family therapist intern, licensed clinical social worker, and
14 associate clinical social worker.

15 (2) “Mental health professional shortage area” means an area
16 designated as such by the Health Resources and Services
17 Administration (HRSA) of the United States Department of
18 Health and Human Services.

19 (c) Commencing January 1, 2005, any licensed mental health
20 service provider who provides direct patient care in a publicly
21 funded facility or a mental health professional shortage area may
22 apply for grants under the program to reimburse his or her

1 educational loans related to a career as a licensed mental health
2 service provider.

3 (d) The Health Professions Education Foundation shall make
4 recommendations to the director of the office concerning all of
5 the following:

6 (1) A standard contractual agreement to be signed by the
7 director and any licensed mental health service provider who is
8 serving in a publicly funded facility or a mental health
9 professional shortage area that would require the licensed mental
10 health service provider who receives a grant under the program
11 to work in the publicly funded facility or a mental health
12 professional shortage area for at least one year.

13 (2) The maximum allowable total grant amount per individual
14 licensed mental health service provider.

15 (3) The maximum allowable annual grant amount per
16 individual licensed mental health service provider.

17 (e) The Health Professions Education Foundation shall
18 develop the program, which shall comply with all of the
19 following requirements:

20 (1) The total amount of grants under the program per
21 individual licensed mental health service provider shall not
22 exceed the amount of educational loans related to a career as a
23 licensed mental health service provider incurred by that provider.

24 (2) The program shall keep the fees from the different licensed
25 providers separate to ensure that all grants are funded by those
26 fees collected from the corresponding licensed provider groups.

27 (3) A loan forgiveness grant may be provided in installments
28 proportionate to the amount of the service obligation that has
29 been completed.

30 (4) The number of persons who may be considered for the
31 program shall be limited by the funds made available pursuant to
32 Section 128458.

33 SEC. 2. Section 128456 of the Health and Safety Code is
34 amended to read:

35 128456. In developing the program established pursuant to
36 this article, the Health Professions Education Foundation shall
37 solicit the advice of representatives of the Board of Behavioral
38 Sciences, the Board of Psychology, the State Department of
39 Mental Health, the California Mental Health Directors
40 Association, the California Mental Health Planning Council,

1 professional mental health care organizations, the California
2 Healthcare Association, the Chancellor of the California
3 Community Colleges, and the Chancellor of the California State
4 University. The foundation shall solicit the advice of
5 representatives who reflect the demographic, cultural, and
6 linguistic diversity of the state.

O

Blank Page

Attachment B

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 525 **VERSION:** AMENDED IN SENATE MAY 24, 2006

AUTHOR: CHU **SPONSOR:** CAMFT

RECOMMENDED POSITION: SUPPORT

SUBJECT: CHILD ABUSE REPORTING

Existing Law:

- 1) Requires the following practitioners to report suspected child abuse or neglect: (PC § 11165.7)
 - Marriage and Family Therapists (MFT), MFT interns and trainees
 - Social workers, including Licensed Clinical Social Workers (LCSW) and Associate Clinical Social Workers (ACSW)
 - Licensed Educational Psychologists (LEP)
 - Other persons and professionals who come into direct contact with children, elders, and dependent adults
- 2) Defines "child abuse or neglect" as: (PC § 11165.3, 11165.6)
 - Physical injury inflicted intentionally upon a child
 - Sexual abuse
 - Neglect
 - Intentionally causing or permitting a child to suffer
 - Inflicting unjustifiable physical pain or mental suffering
 - Causing or permitting the child to be placed in a situation where the child or the child's health is endangered
 - Unlawful corporal punishment or injury.
- 3) Requires a mandated reporter to report child abuse immediately or as soon as possible by telephone and in writing within 36 hours when, in his or her professional capacity, he or she reasonably suspects a child has been the victim of child abuse or neglect. (PC § 11166(a))
- 4) Permits a mandated reporter to make a report of child emotional abuse (not "unjustifiable mental suffering" which is considered child abuse), defined as a child who is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, evidenced by, but not limited to, the following: (PC § 11166.05)
 - Severe anxiety
 - Depression
 - Withdrawal
 - Untoward aggressive behavior toward self or others
- 5) Requires reports of suspected child abuse or neglect to be made by mandated reporters to any entity required to accept mandated reports. (PC § 11165.9)

- 6) Permits the mandated reporter to release information related to the incident of child abuse or neglect to an investigator from an agency that is investigating the case of child abuse or neglect or to the pertinent branch of the Department of Social Services. (PC § 11167(b), 11167(c)))
- 7) Requires the identity of mandated reporters to be confidential and disclosed only among involved agencies, or to the prosecutor of alleged child abuse, to counsel, or to the Department of Social Services when abuse or neglect in out-of-home care is reasonably suspected, or when the mandated reporter waives confidentiality, or by court order. (PC § 11167(d)(1))
- 8) Requires the child abuse investigator to advise the individual who is being investigated of the complaints or allegations against him or her in a manner that protects the identity of the mandated reporter. (PC § 11167(e))
- 9) Requires reports of child abuse or neglect and any investigative reports that result in a summary report being filed with the Department of Justice to be confidential and to be disclosed only to those persons or entities as permitted by law. (PC § 11167.5(a))
- 10) Requires the agency investigating a report of child abuse or neglect to provide the mandated reporter with a report of the results of the investigation and of any action the agency is taking regarding the child or family upon completion of the investigation or after the case has been closed. (PC § 11170(b)(2))

This Bill:

- 1) Adds child emotional abuse to the definition of "child abuse and neglect." (PC § 11165.6)
- 2) Requires reports of suspected child emotional abuse to be made to any entity required to accept mandated reports. (PC § 11165.9)
- 3) Clarifies that the reporting of child emotional abuse is not a mandatory report. (PC § 11166(a))
- 4) Establishes the technical requirements of an authorized report of child emotional abuse. 11167(a).
- 5) Permits the authorized reporter to release information related to the incident of child emotional abuse to an investigator from an agency investigating the case or to the pertinent branch of the Department of Social Services. (PC § 11167(b), 11167(c))
- 6) Requires the identity of authorized reporters to be confidential and disclosed only among involved agencies, to the prosecutor, to counsel, or to the Department of Social Services, or when the authorized reporter waives confidentiality, or by court order. (PC § 11167(d)(1))
- 7) Requires the child abuse investigator to advise the individual who is subject to the investigation of the complaints or allegations against him or her in a manner that protects the identity of the authorized reporter. (PC § 11167(e))
- 8) Requires reports of child emotional abuse, and any investigative reports that result in a summary report being filed with the Department of Justice to be confidential and be disclosed only to those persons or entities as permitted by law. (PC § 11167.5(a))

- 9) Requires the agency investigating a report of child emotional abuse to provide the authorized reporter with a report of the results of the investigation and of any action the agency is taking with regard to the child or family upon completion of the investigation or after the case has been closed. (PC § 11170(b)(2))

Comment:

- 1) **Author's Intent.** According to the author, in the last few years, there have been a lot of changes to the child abuse law which has lead to confusion regarding the reporting of child emotional abuse. This bill makes conforming changes, including stating that emotional abuse is child abuse, that confidentiality protections also apply to those who report emotional abuse (the same as those who report other types of abuse), and that those who report emotional abuse are entitled to find out what happened, just as they would for a mandated report. According to the sponsor, a couple of years ago child emotional abuse was placed in a separate section of the penal code than the Child Abuse and Neglect Reporting Act, and as a result of its relocation does not appear to be a form of abuse. The sponsor wants to make it clear that emotional abuse is a form of abuse, even though it is permissive to report. Such is the case in 48 other states, whether the report is permissive or mandatory.
- 2) **Permissive vs. Mandatory.** This bill would impact all of the Board's licensees and registrants because they are mandated reporters of child abuse and neglect. One potential reading of this bill is that it would make the reporting of child emotional abuse mandatory. This is because the proposal adds child emotional abuse to the definition of child abuse, and child abuse is required to be reported.
- 3) **Suggested Amendments.**
- The proposed section 11165.6 appears to have a typographical error. The suggested amendment is as follows:

11165.6. As used in this article, the term "child abuse or neglect" includes physical injury inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse and neglect also includes instances in which a child suffers or is at substantial risk of suffering serious emotional damage as described in Section ~~11165.05~~ 11166.05. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.
 - The following addition is suggested in section 11167(d)(1) to clarify that confidentiality also applies to non-mandated reports, in line with the sponsor's intent:

11167(d)(1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated or authorized reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and

Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

4) Support and Opposition.

None known at this time.

5) History

2006

Mar. 22 Withdrawn from committee. Re-referred to Com. on PUB. S.
Mar. 15 Re-referred to Coms. on HUMAN S. and PUB. S.
Mar. 8 Withdrawn from committee. Re-referred to Com. on RLS.
Mar. 7 From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on HEALTH.
Feb. 2 Referred to Com. on HEALTH.
Jan. 26 In Senate. Read first time. To Com. on RLS. for assignment.
Jan. 26 Read third time, passed, and to Senate. (Ayes 48. Noes 27. Page 4112.)
Jan. 24 Read second time. To third reading.
Jan. 23 Read second time and amended. Ordered returned to second reading.
Jan. 19 From committee: Amend, and do pass as amended. (Ayes 13. Noes 0.) (January 19).

2005

May 25 In committee: Hearing postponed by committee.
May 18 In committee: Set, first hearing. Referred to APPR. suspense file.
Apr. 27 Re-referred to Com. on APPR.
Apr. 26 Read second time and amended.
Apr. 25 From committee: Amend, and do pass as amended, and re-refer to Com. on APPR. (Ayes 11. Noes 1.) (April 19).
Apr. 12 In committee: Set, first hearing. Hearing canceled at the request of author.
Apr. 5 Re-referred to Com. on HEALTH.
Apr. 4 From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
Feb. 28 Referred to Com. on HEALTH.
Feb. 17 From printer. May be heard in committee March 19.
Feb. 16 Read first time. To print.

AMENDED IN SENATE MAY 24, 2006

AMENDED IN SENATE MAY 16, 2006

AMENDED IN SENATE MARCH 7, 2006

AMENDED IN ASSEMBLY JANUARY 23, 2006

AMENDED IN ASSEMBLY APRIL 26, 2005

AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 525

Introduced by Assembly Member Chu

February 16, 2005

An act to amend Sections 11162.5, 11165.6, 11165.9, 11166, 11167, 11167.5, and 11170 of the Penal Code, relating to child abuse reporting.

LEGISLATIVE COUNSEL'S DIGEST

AB 525, as amended, Chu. Child abuse reporting.

Existing law defines the term “child abuse or neglect” for purposes of mandatory reporting of suspected instances of child abuse or neglect. Existing law specifies certain agencies to which mandated reports of suspected child abuse or neglect shall be made. Existing law requires those agencies to forward those reports that are determined not to be unfounded to the Department of Justice. Existing law also authorizes, but does not require, the reporting of instances where a child suffers or is at substantial risk of suffering serious emotional damage, as specified.

This bill would include within that definition of “child abuse or neglect,” instances where a child suffers or is at substantial risk of suffering serious emotional damage, as defined. This bill would generally conform the procedures for authorized reporting of instances of child abuse or neglect involving emotional damage, as specified, to certain existing procedures applicable to mandated child abuse reporting.

By increasing the reporting burden on local law enforcement agencies, this bill would impose a state-mandated local program.

Existing law requires a representative of a child protective services agency performing an investigation resulting from a required report of suspected child abuse or neglect to inform the individual who is the subject of the investigation, at the 1st contact, of the complaints or allegations against that person, as specified.

This bill would apply that requirement in the context of reports of child abuse or neglect involving serious emotional damage that are authorized to be reported.

By increasing the duties of local government entities in connection with investigating certain instances of suspected child abuse, this bill would impose a state-mandated local program.

Existing law requires the investigating agency investigating suspected child abuse or neglect, upon completion of the investigation or after there has been a final disposition of the matter, to inform the mandated reporter of the results of the investigation and of any action the agency is taking with regard to the child or family.

This bill would apply that requirement to the context of reports of child abuse or neglect involving serious emotional damage that are authorized to be reported.

This bill would also correct an obsolete cross-reference.

By increasing the duties of local government entities in connection with investigating certain instances of suspected child abuse, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11162.5 of the Penal Code is amended
2 to read:

3 11162.5. As used in this article, the following definitions
4 shall apply:

5 (a) “Health practitioner” has the same meaning as provided in
6 ~~Section 11165.8 paragraphs (21) to (28), inclusive, of~~
7 ~~subdivision (a) of Section 11165.7.~~

8 (b) “Clinic” is limited to include any clinic specified in
9 Sections 1204 and 1204.3 of the Health and Safety Code.

10 (c) “Health facility” has the same meaning as provided in
11 Section 1250 of the Health and Safety Code.

12 (d) “Reasonably suspects” means that it is objectively
13 reasonable for a person to entertain a suspicion, based upon facts
14 that could cause a reasonable person in a like position, drawing,
15 when appropriate, on his or her training and experience, to
16 suspect.

17 ~~SECTION 1.~~

18 SEC. 2. Section 11165.6 of the Penal Code is amended to
19 read:

20 11165.6. As used in this article, the term “child abuse or
21 neglect” includes physical injury inflicted by other than
22 accidental means upon a child by another person, sexual abuse as
23 defined in Section 11165.1, neglect as defined in Section
24 11165.2, the willful harming or injuring of a child or the
25 endangering of the person or health of a child, as defined in
26 Section 11165.3, and unlawful corporal punishment or injury as
27 defined in Section 11165.4. “Child abuse or neglect also includes
28 instances in which a child suffers or is at substantial risk of
29 suffering serious emotional damage as described in Section
30 11166.05. “Child abuse or neglect” does not include a mutual
31 affray between minors. “Child abuse or neglect” does not include
32 an injury caused by reasonable and necessary force used by a
33 peace officer acting within the course and scope of his or her
34 employment as a peace officer.

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 11165.9 of the Penal Code is amended to
3 read:

4 11165.9. Reports of suspected child abuse or neglect shall be
5 made by mandated reporters, or in the case of reports pursuant to
6 Section 11166.05, may be made, to any police department or
7 sheriff's department, not including a school district police or
8 security department, county probation department, if designated
9 by the county to receive mandated reports, or the county welfare
10 department. Any of those agencies shall accept a report of
11 suspected child abuse or neglect whether offered by a mandated
12 reporter or another person, or referred by another agency, even if
13 the agency to whom the report is being made lacks subject matter
14 or geographical jurisdiction to investigate the reported case,
15 unless the agency can immediately electronically transfer the call
16 to an agency with proper jurisdiction. When an agency takes a
17 report about a case of suspected child abuse or neglect in which
18 that agency lacks jurisdiction, the agency shall immediately refer
19 the case by telephone, fax, or electronic transmission to an
20 agency with proper jurisdiction. Agencies that are required to
21 receive reports of suspected child abuse or neglect may not
22 refuse to accept a report of suspected child abuse or neglect from
23 a mandated reporter or another person unless otherwise
24 authorized pursuant to this section, and shall maintain a record of
25 all reports received.

26 ~~SEC. 3.~~

27 *SEC. 4.* Section 11166 of the Penal Code is amended to read:

28 11166. (a) Except as provided in subdivision (d), and in
29 Section 11166.05, a mandated reporter shall make a report to an
30 agency specified in Section 11165.9 whenever the mandated
31 reporter, in his or her professional capacity or within the scope of
32 his or her employment, has knowledge of or observes a child
33 whom the mandated reporter knows or reasonably suspects has
34 been the victim of child abuse or neglect. The mandated reporter
35 shall make an initial report to the agency immediately or as soon
36 as is practicably possible by telephone and the mandated reporter
37 shall prepare and send, fax, or electronically transmit a written
38 followup report thereof within 36 hours of receiving the
39 information concerning the incident. The mandated reporter may

1 include with the report any nonprivileged documentary evidence
2 the mandated reporter possesses relating to the incident.

3 (1) For the purposes of this article, “reasonable suspicion”
4 means that it is objectively reasonable for a person to entertain a
5 suspicion, based upon facts that could cause a reasonable person
6 in a like position, drawing, when appropriate, on his or her
7 training and experience, to suspect child abuse or neglect. For the
8 purpose of this article, the pregnancy of a minor does not, in and
9 of itself, constitute a basis for a reasonable suspicion of sexual
10 abuse.

11 (2) The agency shall be notified and a report shall be prepared
12 and sent, faxed, or electronically transmitted even if the child has
13 expired, regardless of whether or not the possible abuse was a
14 factor contributing to the death, and even if suspected child abuse
15 was discovered during an autopsy.

16 (3) Any report made by a mandated reporter pursuant to this
17 section shall be known as a mandated report.

18 (b) If after reasonable efforts a mandated reporter is unable to
19 submit an initial report by telephone, he or she shall immediately
20 or as soon as is practicably possible, by fax or electronic
21 transmission, make a one-time automated written report on the
22 form prescribed by the Department of Justice, and shall also be
23 available to respond to a telephone followup call by the agency
24 with which he or she filed the report. A mandated reporter who
25 files a one-time automated written report because he or she was
26 unable to submit an initial report by telephone is not required to
27 submit a written followup report.

28 (1) The one-time automated written report form prescribed by
29 the Department of Justice shall be clearly identifiable so that it is
30 not mistaken for a standard written followup report. In addition,
31 the automated one-time report shall contain a section that allows
32 the mandated reporter to state the reason the initial telephone call
33 was not able to be completed. The reason for the submission of
34 the one-time automated written report in lieu of the procedure
35 prescribed in subdivision (a) shall be captured in the Child
36 Welfare Services/Case Management System (CWS/CMS). The
37 department shall work with stakeholders to modify reporting
38 forms and the CWS/CMS as is necessary to accommodate the
39 changes enacted by these provisions.

1 (2) This subdivision shall not become operative until the
2 CWS/CMS is updated to capture the information prescribed in
3 this subdivision.

4 (3) This subdivision shall become inoperative three years after
5 this subdivision becomes operative or on January 1, 2009, which
6 ever occurs first.

7 (4) On the inoperative date of these provisions, a report shall
8 be submitted to the counties and the Legislature by the
9 Department of Social Services that reflects the data collected
10 from automated one-time reports indicating the reasons stated as
11 to why the automated one-time report was filed in lieu of the
12 initial telephone report.

13 (5) Nothing in this section shall supersede the requirement that
14 a mandated reporter first attempt to make a report via telephone,
15 or that agencies specified in Section 11165.9 accept reports from
16 mandated reporters and other persons as required.

17 (c) Any mandated reporter who fails to report an incident of
18 known or reasonably suspected child abuse or neglect as required
19 by this section is guilty of a misdemeanor punishable by up to six
20 months confinement in a county jail or by a fine of one thousand
21 dollars (\$1,000) or by both that imprisonment and fine. If a
22 mandated reporter intentionally conceals his or her failure to
23 report an incident known by the mandated reporter to be abuse or
24 severe neglect under this section, the failure to report is a
25 continuing offense until an agency specified in Section 11165.9
26 discovers the offense.

27 (d) (1) A clergy member who acquires knowledge or a
28 reasonable suspicion of child abuse or neglect during a
29 penitential communication is not subject to subdivision (a). For
30 the purposes of this subdivision, "penitential communication"
31 means a communication, intended to be in confidence, including,
32 but not limited to, a sacramental confession, made to a clergy
33 member who, in the course of the discipline or practice of his or
34 her church, denomination, or organization, is authorized or
35 accustomed to hear those communications, and under the
36 discipline, tenets, customs, or practices of his or her church,
37 denomination, or organization, has a duty to keep those
38 communications secret.

39 (2) Nothing in this subdivision shall be construed to modify or
40 limit a clergy member's duty to report known or suspected child

1 abuse or neglect when the clergy member is acting in some other
2 capacity that would otherwise make the clergy member a
3 mandated reporter.

4 (3) (A) On or before January 1, 2004, a clergy member or any
5 custodian of records for the clergy member may report to an
6 agency specified in Section 11165.9 that the clergy member or
7 any custodian of records for the clergy member, prior to January
8 1, 1997, in his or her professional capacity or within the scope of
9 his or her employment, other than during a penitential
10 communication, acquired knowledge or had a reasonable
11 suspicion that a child had been the victim of sexual abuse that the
12 clergy member or any custodian of records for the clergy
13 member did not previously report the abuse to an agency
14 specified in Section 11165.9. The provisions of Section 11172
15 shall apply to all reports made pursuant to this paragraph.

16 (B) This paragraph shall apply even if the victim of the known
17 or suspected abuse has reached the age of majority by the time
18 the required report is made.

19 (C) The local law enforcement agency shall have jurisdiction
20 to investigate any report of child abuse made pursuant to this
21 paragraph even if the report is made after the victim has reached
22 the age of majority.

23 (e) Any commercial film and photographic print processor
24 who has knowledge of or observes, within the scope of his or her
25 professional capacity or employment, any film, photograph,
26 videotape, negative, or slide depicting a child under the age of 16
27 years engaged in an act of sexual conduct, shall report the
28 instance of suspected child abuse to the law enforcement agency
29 having jurisdiction over the case immediately, or as soon as
30 practicably possible, by telephone and shall prepare and send,
31 fax, or electronically transmit a written report of it with a copy of
32 the film, photograph, videotape, negative, or slide attached
33 within 36 hours of receiving the information concerning the
34 incident. As used in this subdivision, "sexual conduct" means
35 any of the following:

36 (1) Sexual intercourse, including genital-genital, oral-genital,
37 anal-genital, or oral-anal, whether between persons of the same
38 or opposite sex or between humans and animals.

39 (2) Penetration of the vagina or rectum by any object.

1 (3) Masturbation for the purpose of sexual stimulation of the
2 viewer.

3 (4) Sadomasochistic abuse for the purpose of sexual
4 stimulation of the viewer.

5 (5) Exhibition of the genitals, pubic, or rectal areas of any
6 person for the purpose of sexual stimulation of the viewer.

7 (f) Any mandated reporter who knows or reasonably suspects
8 that the home or institution in which a child resides is unsuitable
9 for the child because of abuse or neglect of the child shall bring
10 the condition to the attention of the agency to which, and at the
11 same time as, he or she makes a report of the abuse or neglect
12 pursuant to subdivision (a).

13 (g) Any other person who has knowledge of or observes a
14 child whom he or she knows or reasonably suspects has been a
15 victim of child abuse or neglect may report the known or
16 suspected instance of child abuse or neglect to an agency
17 specified in Section 11165.9.

18 (h) When two or more persons, who are required to report,
19 jointly have knowledge of a known or suspected instance of child
20 abuse or neglect, and when there is agreement among them, the
21 telephone report may be made by a member of the team selected
22 by mutual agreement and a single report may be made and signed
23 by the selected member of the reporting team. Any member who
24 has knowledge that the member designated to report has failed to
25 do so shall thereafter make the report.

26 (i) (1) The reporting duties under this section are individual,
27 and no supervisor or administrator may impede or inhibit the
28 reporting duties, and no person making a report shall be subject
29 to any sanction for making the report. However, internal
30 procedures to facilitate reporting and apprise supervisors and
31 administrators of reports may be established provided that they
32 are not inconsistent with this article.

33 (2) The internal procedures shall not require any employee
34 required to make reports pursuant to this article to disclose his or
35 her identity to the employer.

36 (3) Reporting the information regarding a case of possible
37 child abuse or neglect to an employer, supervisor, school
38 principal, school counselor, coworker, or other person shall not
39 be a substitute for making a mandated report to an agency
40 specified in Section 11165.9.

1 (j) A county probation or welfare department shall
2 immediately, or as soon as practicably possible, report by
3 telephone, fax, or electronic transmission to the law enforcement
4 agency having jurisdiction over the case, to the agency given the
5 responsibility for investigation of cases under Section 300 of the
6 Welfare and Institutions Code, and to the district attorney's
7 office every known or suspected instance of child abuse or
8 neglect, as defined in Section 11165.6, except acts or omissions
9 coming within subdivision (b) of Section 11165.2, or reports
10 made pursuant to Section 11165.13 based on risk to a child
11 which relates solely to the inability of the parent to provide the
12 child with regular care due to the parent's substance abuse, which
13 shall be reported only to the county welfare or probation
14 department. A county probation or welfare department also shall
15 send, fax, or electronically transmit a written report thereof
16 within 36 hours of receiving the information concerning the
17 incident to any agency to which it makes a telephone report
18 under this subdivision.

19 (k) A law enforcement agency shall immediately, or as soon as
20 practicably possible, report by telephone, fax, or electronic
21 transmission to the agency given responsibility for investigation
22 of cases under Section 300 of the Welfare and Institutions Code
23 and to the district attorney's office every known or suspected
24 instance of child abuse or neglect reported to it, except acts or
25 omissions coming within subdivision (b) of Section 11165.2,
26 which shall be reported only to the county welfare or probation
27 department. A law enforcement agency shall report to the county
28 welfare or probation department every known or suspected
29 instance of child abuse or neglect reported to it which is alleged
30 to have occurred as a result of the action of a person responsible
31 for the child's welfare, or as the result of the failure of a person
32 responsible for the child's welfare to adequately protect the
33 minor from abuse when the person responsible for the child's
34 welfare knew or reasonably should have known that the minor
35 was in danger of abuse. A law enforcement agency also shall
36 send, fax, or electronically transmit a written report thereof
37 within 36 hours of receiving the information concerning the
38 incident to any agency to which it makes a telephone report
39 under this subdivision.

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 11167 of the Penal Code is amended to read:

3 11167. (a) Reports of suspected child abuse or neglect
4 pursuant to Section 11166 or Section 11166.05 shall include the
5 name, business address, and telephone number of the mandated
6 reporter; the capacity that makes the person a mandated reporter;
7 and the information that gave rise to the reasonable suspicion of
8 child abuse or neglect and the source or sources of that
9 information. If a report is made, the following information, if
10 known, shall also be included in the report: the child's name, the
11 child's address, present location, and, if applicable, school,
12 grade, and class; the names, addresses, and telephone numbers of
13 the child's parents or guardians; and the name, address, telephone
14 number, and other relevant personal information about the person
15 or persons who might have abused or neglected the child. The
16 mandated reporter shall make a report even if some of this
17 information is not known or is uncertain to him or her.

18 (b) Information relevant to the incident of child abuse or
19 neglect may be given to an investigator from an agency that is
20 investigating the known or suspected case of child abuse or
21 neglect.

22 (c) Information relevant to the incident of child abuse or
23 neglect, including the investigation report and other pertinent
24 materials, may be given to the licensing agency when it is
25 investigating a known or suspected case of child abuse or
26 neglect.

27 (d) (1) The identity of all persons who report under this article
28 shall be confidential and disclosed only among agencies
29 receiving or investigating mandated reports, to the prosecutor in
30 a criminal prosecution or in an action initiated under Section 602
31 of the Welfare and Institutions Code arising from alleged child
32 abuse, or to counsel appointed pursuant to subdivision (c) of
33 Section 317 of the Welfare and Institutions Code, or to the
34 county counsel or prosecutor in a proceeding under Part 4
35 (commencing with Section 7800) of Division 12 of the Family
36 Code or Section 300 of the Welfare and Institutions Code, or to a
37 licensing agency when abuse or neglect in out-of-home care is
38 reasonably suspected, or when those persons waive
39 confidentiality, or by court order.

1 (2) No agency or person listed in this subdivision shall
2 disclose the identity of any person who reports under this article
3 to that person's employer, except with the employee's consent or
4 by court order.

5 (e) Notwithstanding the confidentiality requirements of this
6 section, a representative of a child protective services agency
7 performing an investigation that results from a report of
8 suspected child abuse or neglect made pursuant to Section 11166
9 or Section 11166.05, at the time of the initial contact with the
10 individual who is subject to the investigation, shall advise the
11 individual of the complaints or allegations against him or her, in
12 a manner that is consistent with laws protecting the identity of
13 the reporter under this article.

14 (f) Persons who may report pursuant to subdivision (g) of
15 Section 11166 are not required to include their names.

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 11167.5 of the Penal Code is amended to
18 read:

19 11167.5. (a) The reports required by Sections 11166 and
20 11166.2, or authorized by Section 11166.05, and child abuse or
21 neglect investigative reports that result in a summary report being
22 filed with the Department of Justice pursuant to subdivision (a)
23 of Section 11169 shall be confidential and may be disclosed only
24 as provided in subdivision (b). Any violation of the
25 confidentiality provided by this article is a misdemeanor
26 punishable by imprisonment in a county jail not to exceed six
27 months, by a fine of five hundred dollars (\$500), or by both that
28 imprisonment and fine.

29 (b) Reports of suspected child abuse or neglect and
30 information contained therein may be disclosed only to the
31 following:

32 (1) Persons or agencies to whom disclosure of the identity of
33 the reporting party is permitted under Section 11167.

34 (2) Persons or agencies to whom disclosure of information is
35 permitted under subdivision (b) of Section 11170 or subdivision
36 (a) of Section 11170.5.

37 (3) Persons or agencies with whom investigations of child
38 abuse or neglect are coordinated under the regulations
39 promulgated under Section 11174.

1 (4) Multidisciplinary personnel teams as defined in
2 subdivision (d) of Section 18951 of the Welfare and Institutions
3 Code.

4 (5) Persons or agencies responsible for the licensing of
5 facilities which care for children, as specified in Section 11165.7.

6 (6) The State Department of Social Services or any county
7 licensing agency which has contracted with the state, as specified
8 in paragraph (4) of subdivision (b) of Section 11170, when an
9 individual has applied for a community care license or child day
10 care license, or for employment in an out-of-home care facility,
11 or when a complaint alleges child abuse or neglect by an operator
12 or employee of an out-of-home care facility.

13 (7) Hospital scan teams. As used in this paragraph, “hospital
14 scan team” means a team of three or more persons established by
15 a hospital, or two or more hospitals in the same county,
16 consisting of health care professionals and representatives of law
17 enforcement and child protective services, the members of which
18 are engaged in the identification of child abuse or neglect. The
19 disclosure authorized by this section includes disclosure among
20 all hospital scan teams.

21 (8) Coroners and medical examiners when conducting a
22 postmortem examination of a child.

23 (9) The Board of Prison Terms, who may subpoena an
24 employee of a county welfare department who can provide
25 relevant evidence and reports that both (A) are not unfounded,
26 pursuant to Section 11165.12, and (B) concern only the current
27 incidents upon which parole revocation proceedings are pending
28 against a parolee charged with child abuse or neglect. The reports
29 and information shall be confidential pursuant to subdivision (d)
30 of Section 11167.

31 (10) Personnel from an agency responsible for making a
32 placement of a child pursuant to Section 361.3 of, and Article 7
33 (commencing with Section 305) of Chapter 2 of Part 1 of
34 Division 2 of, the Welfare and Institutions Code.

35 (11) Persons who have been identified by the Department of
36 Justice as listed in the Child Abuse Central Index pursuant to
37 paragraph (6) of subdivision (b) of Section 11170 or subdivision
38 (c) of Section 11170, or persons who have verified with the
39 Department of Justice that they are listed in the Child Abuse
40 Central Index as provided in subdivision (e) of Section 11170.

1 Disclosure under this paragraph is required notwithstanding the
2 California Public Records Act, Chapter 3.5 (commencing with
3 Section 6250) of Division 7 of Title 1 of the Government Code.
4 Nothing in this paragraph shall preclude a submitting agency
5 prior to disclosure from redacting any information necessary to
6 maintain confidentiality as required by law.

7 (12) Out-of-state law enforcement agencies conducting an
8 investigation of child abuse or neglect only when an agency
9 makes the request for reports of suspected child abuse or neglect
10 in writing and on official letterhead, identifying the suspected
11 abuser or victim by name. The request shall be signed by the
12 department supervisor of the requesting law enforcement agency.
13 The written request shall cite the out-of-state statute or interstate
14 compact provision that requires that the information contained
15 within these reports is to be disclosed only to law enforcement,
16 prosecutorial entities, or multidisciplinary investigative teams,
17 and shall cite the criminal penalties for unlawful disclosure
18 provided by the requesting state or the applicable interstate
19 compact provision. In the absence of both (A) a specific
20 out-of-state statute or interstate compact provision that requires
21 that the information contained within these reports be disclosed
22 only to law enforcement, prosecutorial entities, or
23 multidisciplinary investigative teams, and (B) criminal penalties
24 equivalent to the penalties in California for unlawful disclosure,
25 access shall be denied.

26 (13) Each chairperson of a county child death review team, or
27 his or her designee, to whom disclosure of information is
28 permitted under this article, relating to the death of one or more
29 children and any prior child abuse or neglect investigation reports
30 maintained involving the same victim, siblings, or suspects.
31 Local child death review teams may share any relevant
32 information regarding case reviews involving child death with
33 other child death review teams.

34 (c) Authorized persons within county health departments shall
35 be permitted to receive copies of any reports made by health
36 practitioners, as defined in paragraphs (21) to (28), inclusive, of
37 subdivision (a) of Section 11165.7, and pursuant to Section
38 11165.13, and copies of assessments completed pursuant to
39 Sections 123600 and 123605 of the Health and Safety Code, to

1 the extent permitted by federal law. Any information received
2 pursuant to this subdivision is protected by subdivision (e).

3 (d) Nothing in this section requires the Department of Justice
4 to disclose information contained in records maintained under
5 Section 11170 or under the regulations promulgated pursuant to
6 Section 11174, except as otherwise provided in this article.

7 (e) This section shall not be interpreted to allow disclosure of
8 any reports or records relevant to the reports of child abuse or
9 neglect if the disclosure would be prohibited by any other
10 provisions of state or federal law applicable to the reports or
11 records relevant to the reports of child abuse or neglect.

12 ~~SEC. 6.~~

13 *SEC. 7.* Section 11170 of the Penal Code is amended to read:

14 11170. (a) (1) The Department of Justice shall maintain an
15 index of all reports of child abuse and severe neglect submitted
16 pursuant to Section 11169. The index shall be continually
17 updated by the department and shall not contain any reports that
18 are determined to be unfounded. The department may adopt rules
19 governing recordkeeping and reporting pursuant to this article.

20 (2) The department shall act only as a repository of reports of
21 suspected child abuse and severe neglect to be maintained in the
22 Child Abuse Central Index pursuant to paragraph (1). The
23 submitting agencies are responsible for the accuracy,
24 completeness, and retention of the reports described in this
25 section. The department shall be responsible for ensuring that the
26 Child Abuse Central Index accurately reflects the report it
27 receives from the submitting agency.

28 (3) Information from an inconclusive or unsubstantiated report
29 filed pursuant to subdivision (a) of Section 11169 shall be
30 deleted from the Child Abuse Central Index after 10 years if no
31 subsequent report concerning the same suspected child abuser is
32 received within that time period. If a subsequent report is
33 received within that 10-year period, information from any prior
34 report, as well as any subsequently filed report, shall be
35 maintained on the Child Abuse Central Index for a period of 10
36 years from the time the most recent report is received by the
37 department.

38 (b) (1) The Department of Justice shall immediately notify an
39 agency that submits a report pursuant to Section 11169, or a
40 prosecutor who requests notification, of any information

1 maintained pursuant to subdivision (a) that is relevant to the
2 known or suspected instance of child abuse or severe neglect
3 reported by the agency. The agency shall make that information
4 available to the reporting medical practitioner, child custodian,
5 guardian ad litem appointed under Section 326, or counsel
6 appointed under Section 317 or 318 of the Welfare and
7 Institutions Code, or the appropriate licensing agency, if he or
8 she is treating or investigating a case of known or suspected child
9 abuse or severe neglect.

10 (2) When a report is made pursuant to subdivision (a) of
11 Section 11166, or Section 11166.05, the investigating agency,
12 upon completion of the investigation or after there has been a
13 final disposition in the matter, shall inform the person required or
14 authorized to report of the results of the investigation and of any
15 action the agency is taking with regard to the child or family.

16 (3) The Department of Justice shall make available to a law
17 enforcement agency, county welfare department, or county
18 probation department that is conducting a child abuse
19 investigation relevant information contained in the index.

20 (4) The department shall make available to the State
21 Department of Social Services or to any county licensing agency
22 that has contracted with the state for the performance of licensing
23 duties information regarding a known or suspected child abuser
24 maintained pursuant to this section and subdivision (a) of Section
25 11169 concerning any person who is an applicant for licensure or
26 any adult who resides or is employed in the home of an applicant
27 for licensure or who is an applicant for employment in a position
28 having supervisory or disciplinary power over a child or
29 children, or who will provide 24-hour care for a child or children
30 in a residential home or facility, pursuant to Section 1522.1 or
31 1596.877 of the Health and Safety Code, or Section 8714, 8802,
32 8912, or 9000 of the Family Code.

33 (5) For purposes of child death review, the Department of
34 Justice shall make available to the chairperson, or the
35 chairperson's designee, for each county child death review team,
36 or the State Child Death Review Council, information maintained
37 in the Child Abuse Central Index pursuant to subdivision (a) of
38 Section 11170 relating to the death of one or more children and
39 any prior child abuse or neglect investigation reports maintained
40 involving the same victims, siblings, or suspects. Local child

1 death review teams may share any relevant information regarding
2 case reviews involving child death with other child death review
3 teams.

4 (6) The department shall make available to investigative
5 agencies or probation officers, or court investigators acting
6 pursuant to Section 1513 of the Probate Code, responsible for
7 placing children or assessing the possible placement of children
8 pursuant to Article 6 (commencing with Section 300), Article 7
9 (commencing with Section 305), Article 10 (commencing with
10 Section 360), or Article 14 (commencing with Section 601) of
11 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
12 Code, Article 2 (commencing with Section 1510) or Article 3
13 (commencing with Section 1540) of Chapter 1 of Part 2 of
14 Division 4 of the Probate Code, information regarding a known
15 or suspected child abuser contained in the index concerning any
16 adult residing in the home where the child may be placed, when
17 this information is requested for purposes of ensuring that the
18 placement is in the best interests of the child. Upon receipt of
19 relevant information concerning child abuse or neglect
20 investigation reports contained in the index from the Department
21 of Justice pursuant to this subdivision, the agency or court
22 investigator shall notify, in writing, the person listed in the Child
23 Abuse Central Index that he or she is in the index. The
24 notification shall include the name of the reporting agency and
25 the date of the report.

26 (7) The Department of Justice shall make available to a
27 government agency conducting a background investigation
28 pursuant to Section 1031 of the Government Code of an
29 applicant seeking employment as a peace officer, as defined in
30 Section 830, information regarding a known or suspected child
31 abuser maintained pursuant to this section concerning the
32 applicant.

33 (8) (A) Persons or agencies, as specified in subdivision (b), if
34 investigating a case of known or suspected child abuse or
35 neglect, or the State Department of Social Services or any county
36 licensing agency pursuant to paragraph (4), or an investigative
37 agency, probation officer, or court investigator responsible for
38 placing children or assessing the possible placement of children
39 pursuant to paragraph (6), or a government agency conducting a
40 background investigation of an applicant seeking employment as

1 a peace officer pursuant to paragraph (7), to whom disclosure of
2 any information maintained pursuant to subdivision (a) is
3 authorized, are responsible for obtaining the original
4 investigative report from the reporting agency, and for drawing
5 independent conclusions regarding the quality of the evidence
6 disclosed, and its sufficiency for making decisions regarding
7 investigation, prosecution, licensing, placement of a child, or
8 employment as a peace officer.

9 (B) If Child Abuse Central Index information is requested by
10 an agency for the temporary placement of a child in an
11 emergency situation pursuant to Article 7 (commencing with
12 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
13 and Institutions Code, the department is exempt from the
14 requirements of Section 1798.18 of the Civil Code if compliance
15 would cause a delay in providing an expedited response to the
16 agency's inquiry and if further delay in placement may be
17 detrimental to the child.

18 (9) (A) Whenever information contained in the Department of
19 Justice files is furnished as the result of an application for
20 employment or licensing pursuant to paragraph (4) or (7), the
21 Department of Justice may charge the person or entity making
22 the request a fee. The fee shall not exceed the reasonable costs to
23 the department of providing the information. The only increase
24 shall be at a rate not to exceed the legislatively approved
25 cost-of-living adjustment for the department. In no case shall the
26 fee exceed fifteen dollars (\$15).

27 (B) All moneys received by the department pursuant to this
28 section to process trustline applications for purposes of Chapter
29 3.35 (commencing with Section 1596.60) of Division 2 of the
30 Health and Safety Code shall be deposited in a special account in
31 the General Fund that is hereby established and named the
32 Department of Justice Child Abuse Fund. Moneys in the fund
33 shall be available, upon appropriation by the Legislature, for
34 expenditure by the department to offset the costs incurred to
35 process trustline automated child abuse or neglect system checks
36 pursuant to this section.

37 (C) All moneys, other than that described in subparagraph (B),
38 received by the department pursuant to this paragraph shall be
39 deposited in a special account in the General Fund which is
40 hereby created and named the Department of Justice Sexual

1 Habitual Offender Fund. The funds shall be available, upon
2 appropriation by the Legislature, for expenditure by the
3 department to offset the costs incurred pursuant to Chapter 9.5
4 (commencing with Section 13885) and Chapter 10 (commencing
5 with Section 13890) of Title 6 of Part 4, and the DNA and
6 Forensic Identification Data Base and Data Bank Act of 1998
7 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1),
8 and for maintenance and improvements to the statewide Sexual
9 Habitual Offender Program and the DNA offender identification
10 file (CAL-DNA) authorized by Chapter 9.5 (commencing with
11 Section 13885) of Title 6 of Part 4 and the DNA and Forensic
12 Identification Data Base and Data Bank Act of 1998 (Chapter 6
13 (commencing with Section 295) of Title 9 of Part 1).

14 (c) The Department of Justice shall make available to any
15 agency responsible for placing children pursuant to Article 7
16 (commencing with Section 305) of Chapter 2 of Part 1 of
17 Division 2 of the Welfare and Institutions Code, upon request,
18 relevant information concerning child abuse or neglect reports
19 contained in the index, when making a placement with a
20 responsible relative pursuant to Sections 281.5, 305, and 361.3 of
21 the Welfare and Institutions Code. Upon receipt of relevant
22 information concerning child abuse or neglect reports contained
23 in the index from the Department of Justice pursuant to this
24 subdivision, the agency shall also notify in writing the person
25 listed in the Child Abuse Central Index that he or she is in the
26 index. The notification shall include the location of the original
27 investigative report and the submitting agency. The notification
28 shall be submitted to the person listed at the same time that all
29 other parties are notified of the information, and no later than the
30 actual judicial proceeding that determines placement.

31 If Child Abuse Central Index information is requested by an
32 agency for the placement of a child with a responsible relative in
33 an emergency situation pursuant to Article 7 (commencing with
34 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
35 and Institutions Code, the department is exempt from the
36 requirements of Section 1798.18 of the Civil Code if compliance
37 would cause a delay in providing an expedited response to the
38 child protective agency's inquiry and if further delay in
39 placement may be detrimental to the child.

1 (d) The department shall make available any information
2 maintained pursuant to subdivision (a) to out-of-state law
3 enforcement agencies conducting investigations of known or
4 suspected child abuse or neglect only when an agency makes the
5 request for information in writing and on official letterhead,
6 identifying the suspected abuser or victim by name. The request
7 shall be signed by the department supervisor of the requesting
8 law enforcement agency. The written requests shall cite the
9 out-of-state statute or interstate compact provision that requires
10 that the information contained within these reports shall be
11 disclosed only to law enforcement, prosecutorial entities, or
12 multidisciplinary investigative teams, and shall cite the criminal
13 penalties for unlawful disclosure of any confidential information
14 provided by the requesting state or the applicable interstate
15 compact provision. In the absence of a specified out-of-state
16 statute or interstate compact provision that requires that the
17 information contained within these reports shall be disclosed
18 only to law enforcement, prosecutorial entities, or
19 multidisciplinary investigative teams, and criminal penalties
20 equivalent to the penalties in California for unlawful disclosure,
21 access shall be denied.

22 (e) (1) Any person may determine if he or she is listed in the
23 Child Abuse Central Index by making a request in writing to the
24 Department of Justice. The request shall be notarized and include
25 the person's name, address, date of birth, and either a social
26 security number or a California identification number. Upon
27 receipt of a notarized request, the Department of Justice shall
28 make available to the requesting person information identifying
29 the date of the report and the submitting agency. The requesting
30 person is responsible for obtaining the investigative report from
31 the submitting agency pursuant to paragraph (11) of subdivision
32 (b) of Section 11167.5.

33 (2) No person or agency shall require or request another
34 person to furnish a copy of a record concerning himself or
35 herself, or notification that a record concerning himself or herself
36 exists or does not exist, pursuant to paragraph (1) of this
37 subdivision.

38 (f) If a person is listed in the Child Abuse Central Index only
39 as a victim of child abuse or neglect, and that person is 18 years
40 of age or older, that person may have his or her name removed

1 from the index by making a written request to the Department of
2 Justice. The request shall be notarized and include the person's
3 name, address, social security number, and date of birth.

4 ~~SEC. 7.~~

5 *SEC. 8.* If the Commission on State Mandates determines that
6 this act contains costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.

Item VI

Blank Page

Memorandum

To: Policy and Advocacy Committee

Date: June 14, 2006

From: Christy Berger
Legislation Analyst

Telephone: (916) 574-7847

Subject: VI. Update on Rulemaking Activity

The status of regulations proposed by the Board are as follows:

Title 16, CCR Section 1886.40, Citations and Fines

These regulations would provide the board with the authority to issue a fine between \$2,501 and \$5,000 for specified violations. This regulation proposal is pending the approval of the Department of Finance before being sent to the Office of Administrative Law (OAL) for approval.

Title 16, CCR Section 1803, Delegation of Authority to the Executive Officer

These regulations would allow the executive officer to sign orders to compel a physical or mental evaluation of a Board licensee or registrant as part of an investigation of a complaint. This regulation proposal is pending a regulation hearing at the July 2006 Board meeting.

Title 16, CCR Sections 1833.1 and 1870, Supervisor Requirements

These regulations would allow supervisors, who are currently required to have practiced psychotherapy for two out of the five years preceding any supervision, to additionally count time spent directly supervising persons who perform psychotherapy. At its April 2006 meeting, the Policy and Advocacy Committee voted to recommend the language to the Board. The Board declined to take action on this proposal at its May 2006 meeting and sent it back to the Committee for further discussion due to concerns about licensees who would become a supervisor after only 2 yrs of licensure, never see clients again, and yet remain a supervisor for the rest of their working life.

Title 16, CCR Section 1886, Citation and Fine of Continuing Education Providers

These regulations would provide the board with the authority to issue a citation and fine to a continuing education provider. This regulation proposal is currently on hold due to staff workload considerations.

Blank Page

Item VII

Blank Page

Memorandum

To: Policy and Advocacy Committee

Date: June 20, 2006

From: Christy Berger
Legislation Analyst

Telephone: (916) 574-7847

Subject: VII. Discussion and Possible Action on Increasing Transparency of Licensure for Marriage and Family Therapists

Background

The Board has been considering ways to increase transparency of licensure for Licensed Clinical Social Workers. At its May 2006 meeting, the Board directed staff to pursue legislation to permit a person who has been licensed for a minimum of four years as a clinical social worker in another state, whose license is valid, active and without disciplinary action, to become licensed in California upon completion of required coursework and passing both board-required examinations.

This proposal would take into account the experience gained as a licensee and allow time for other state boards to complete investigation of any pending complaints. A person who has been licensed in another state for less than four years would additionally be required to possess supervised experience that is substantially equivalent. However, if the applicant's hours of experience are deficient, he or she may count time actively licensed toward the experience requirement.

The American Association of Marriage and Family Therapists (AAMFT), California Chapter, has asked the Board to consider increasing transparency for Marriage and Family Therapists (MFT) licensed in another state. The Board does not have reciprocity with any other state.

When a person has been licensed in another state as a MFT for at least two years and wishes to become licensed as a MFT in California, he or she must meet the following qualifications, regardless of how long he or she has been licensed:¹

- Education must be substantially equivalent
- Supervised experience must be substantially equivalent:
 - o Must be completed within the six years prior to application
 - o Must be verified by the licensing board or past supervisors
- Complete the following coursework:
 - o California law and ethics: Two semester units, must be taken in California
 - o Child abuse assessment and reporting: Seven hours
 - o Human Sexuality: 10 hours
 - o Alcoholism and other chemical substance dependency: 15 hours
 - o Spousal or partner abuse: 15 hours
 - o Psychological testing: Two semester units
 - o Psychopharmacology: Two semester units
- Pass both the standard written and clinical vignette examinations

¹ Business and Professions Code (BPC) Section 4980.80

For a person who has gained education and/or experience in another state, or has been licensed as an MFT for **less** than two years in another state, similar requirements apply. But in addition, the applicant must register as an MFT Intern and complete a minimum of 250 hours of experience (or more) prior to applying for the licensure examinations.²

These requirements can create quite a delay for obtaining licensure in California. This is especially true for the applicant whose supervised experience is more than six years old, or who has not earned a full 3000 hours (most states require only 1500 hours). In such cases, the applicant has to earn additional hours of supervised experience. Additionally, some degrees earned in other states do not qualify.

Discussion

48 states plus the District of Columbia currently license MFTs for clinical independent practice. According to a survey of states by AAMFT, the scope of practice for clinical MFT licenses are comparable across all states, permitting MFTs to perform counseling and/or psychotherapy with individuals, couples, and groups. AAMFT provided some data regarding licensure requirements in each state. Staff performed additional research to complete the attached chart, which indicates basic requirements for licensure in each state.

Unlike California, most states do not require a specific degree title to become licensed as a MFT. According to AAMFT, the vast majority require a degree in marriage and family therapy or “the equivalent.” The number of units required for a qualifying degree vary from a low of 27 semester units (Indiana) to a high of 60 units (six states). The number of units required nationally averages 41, and California requires 48.

57% of states require 18 semester units specific to marriage and family therapy, though the number ranges from a low of three units (New York) to a high of 24 units (South Carolina and Washington). California requires 12 units.

All states that require practicum hours require more than California’s 150 (The District of Columbia and Washington require none). Interestingly, the vast majority of states do not accept any pre-degree hours other than practicum. Only nine states including California accept pre-degree hours of experience.

Post-degree experience requirements vary widely, from a low of 1,000 hours (Louisiana and North Carolina) to a high of 4,000 (Kansas, Utah, and Virginia). 18 states require 1,500 hours of experience or less. The average number of hours required is 2,643. Some states specify post-degree experience in terms of years rather than hours.

All states except for California use the examination developed by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). Six states require an additional state-developed oral, written, or jurisprudence examination.

Questions for Consideration

Should the Board work to increase transparency for the MFT profession? If so, in what way? What impact would the varying requirements for education and experience across states have on such a proposal?

Attachments

Marriage and Family Therapist Licensure Requirements Across the U.S. (table)
Business and Professions Code Sections 4980.37, 4980.39, 4980.40, 4980.41, 4980.43, 4980.80 and 4980.90

² BPC Section 4980.90

Attachment A

Blank Page

State	License Name	Scope of Practice	Degree Titles Accepted	Degree Units Required	MF-T Units Req.	Practicum Hrs. Req.	Pre-Deg. Hrs. Accepted	Post-Degree Hrs. Req.	Years of Exp. Required	Exam Type(s) Required	Notes
COMMENT	LMFT=Licensed Marriage (or Marital) and Family Therapist	According to a survey by AAMFT*, the scopes of practice for equivalent license types are comparable across all states (can perform counseling and/or psychotherapy with individuals, couples, and groups).	Only a few states list the related degree titles that are acceptable in addition to an MFT degree, but most just specify that an "equivalent" degree is acceptable as long as it contains particular coursework.				NA=Not Accepted (other than practicum hours)		All post-degree if pre-degree hours are NA		
AL	LMFT	Equivalent to CA	MFT or equivalent	57 sem**	18 sem		500 NA	1560	2	AMFTRB	
AK	LMFT	Equivalent to CA	MFT or equivalent	33 sem/44 qtr	18 sem	1 year	NA	1500	3	AMFTRB and State-developed Exam	
AR	LMFT	Equivalent to CA	MFT or equivalent	57 sem**	18 sem		500 NA	See Notes	3	AMFTRB and Oral exam	Must be 3 years of full-time experience
AZ	LMFT	Equivalent to CA	MFT or equivalent	33 sem/44 qtr	18 sem		300 NA	3,200	2	AMFTRB	
CA	MFT	May treat individuals, couples, or groups, examine relationships to achieve better adjustments, use psychotherapeutic techniques, provide explanations and interpretations of psychosexual and psychosocial aspects of relationships, and apply required coursework and training.	Marriage, family and child counseling; marital and family therapy; psychology; clinical psychology; counseling psychology; counseling with an emphasis in MFCC or MFT.	48 sem/72 qtr	12 sem/18 quarter		150 1300 max	1700 min	2	State-developed written and clinical vignette	
CO	LMFT	Equivalent to CA	MFT or equivalent	45 sem	18 sem		300 NA	1050	2	AMFTRB and State-developed jurisprudence Exam	
CT	LMFT	Equivalent to CA	MFT or equivalent	45 sem	12 sem		500 NA	1100	1	AMFTRB and State-developed jurisprudence Exam	
DC	LMFT	Equivalent to CA	MFT or equivalent	60 sem/90 qtr	9 sem	No min.	No Min.	1800	2	AMFTRB	
DE	LMFT	Equivalent to CA	MFT or equivalent	57 sem**	18 sem		500 NA	3200	2	AMFTRB	
FL	LMFT	Equivalent to CA	MFT or equivalent	36 sem	12 sem		180 NA	Not specified	2	AMFTRB	
GA	LMFT	Equivalent to CA	MFT or equivalent	42 sem	12 sem		500 NA	2500	2	AMFTRB	
HI	MFT	Equivalent to CA	MFT or equivalent	33 sem	18 sem		300 NA	1200	2	AMFTRB	
IA	LMFT	Equivalent to CA	MFT or equivalent	45 sem	18 sem		300 NA	Full-time	2	AMFTRB	
ID	LMFT	Equivalent to CA	MFT or equivalent	60 sem	18 sem		300 NA	3000	2	AMFTRB	
IL	LMFT	Equivalent to CA	MFT or equivalent	48 sem	18 sem		300 NA	3000	2	AMFTRB	
IN	LMFT	Equivalent to CA	MFT or equivalent	27 sem/41 qtr	9 sem		500 1 year max	1200	2	AMFTRB	
KS	Licensed Clinical MFT	Equivalent to CA	MFT or equivalent	33 sem	18 sem		500 NA	4000	2	AMFTRB	Also licenses LMFT (works under supervision)
KY	LMFT	Equivalent to CA	MFT or equivalent	31 sem	18 sem		300 NA	Not specified	2	AMFTRB	
LA	LMFT	Equivalent to CA	MFT or equivalent	48 sem	18 sem		500 NA	1000	2	AMFTRB	
MA	LMFT	Equivalent to CA	MFT or equivalent	60 sem	18 sem		300 NA	3360	2	AMFTRB	
MD	Licensed Clinical MFT	Equivalent to CA	MFT or equivalent	60 sem	12 sem		300 NA	2000	2	AMFTRB and State-developed exam	
ME	LMFT	Equivalent to CA	MFT or equivalent	36 sem	18 sem		300 NA	1200	2	AMFTRB	
MI	LMFT	Equivalent to CA	MFT or equivalent	Not specified	18 sem		300 NA	1200	Not specified	AMFTRB	
MN	LMFT	Equivalent to CA	MFT or equivalent	33 sem	18 sem		300 NA	1200	2	AMFTRB and Oral exam	
MO	LMFT	Equivalent to CA	MFT or equivalent	45 sem	15 sem		500 NA	3000	2	AMFTRB	
MS	LMFT	Equivalent to CA	MFT or equivalent	57 sem**	18 sem		500 100 max	1200	2	AMFTRB	
MT	State does not license at this level										
NC	LMFT	Equivalent to CA	MFT or equivalent	45 sem	12 sem	12 mos.	500 max	1000	Not specified	AMFTRB	
ND	MFT	Equivalent to CA	MFT or equivalent	See Notes					2	Expected to use AMFTRB.	Just passed licensure law in April 2005. No regulations yet.
NE	LMFT	Equivalent to CA	MFT or equivalent	39 sem	18 sem		300 NA	3000	Not specified	AMFTRB	
NH	LMFT	Equivalent to CA	MFT or equivalent	33 sem	18 sem		300 NA	3000	2	AMFTRB	
NJ	LMFT	Equivalent to CA	MFT or equivalent	33 sem	18 sem	One year	1750 max	3500 min	3	AMFTRB	
NM	LMFT	Equivalent to CA	MFT or equivalent	45 sem	18 sem		300 NA	1200	2	AMFTRB	
NV	LMFT	Equivalent to CA	MFT or equivalent	45 sem	15 sem	One year	NA	3000	1	AMFTRB or AAMFT National	
NY	LMFT	Equivalent to CA	MFT or equivalent	45 sem	3 sem		300 NA	1500	Not specified	AMFTRB	
OH	Licensed Independent MFT	Equivalent to CA	MFT or equivalent	90 qtr	6 sem		300 NA	1200	2	AMFTRB	
OK	LMFT	Equivalent to CA	MFT or equivalent	33 sem	18 sem		300 NA	Not specified	2	AMFTRB	
OR	LMFT	Equivalent to CA	MFT or equivalent	48 sem	12 sem		600 1 year	Not specified	2	AMFTRB	
PA	LMFT	Equivalent to CA	MFT or equivalent	48 sem	18 sem		300 NA	3600	3	AMFTRB	
RI	LMFT	Equivalent to CA	MFT or equivalent	60 sem	15 sem		500 NA	2000	2	AMFTRB	
SC	LMFT	Equivalent to CA	MFT or equivalent	48 sem	24 sem		300 NA	1200	2	AMFTRB	
SD	LMFT	Equivalent to CA	MFT or equivalent	48 sem	18 sem		300 NA	1900	2	AMFTRB	
TN	LMFT	Equivalent to CA	MFT or equivalent	36 sem	18 sem		300 NA	10 hrs/wk min.	2	AMFTRB	
TX	LMFT	Equivalent to CA	MFT or equivalent	45 sem	15 sem	1 year	1500 max	1500 min	2	AMFTRB	
UT	LMFT	Equivalent to CA	MFT or equivalent	30 sem	15 sem		500 NA	4000	Not specified	AMFTRB	
VA	LMFT	Equivalent to CA	MFT or equivalent	60 sem	12 sem		600 NA	4000	Not specified	AMFTRB	
VT	LMFT	Equivalent to CA	MFT or equivalent	36 sem	18 sem		500 NA	3000	Not specified	AMFTRB	
WA	LMFT	Equivalent to CA	MFT or equivalent	45 sem/66 qtr	24 sem	9 sem units	NA	3000	2	AMFTRB	
WI	LMFT	Equivalent to CA	MFT or equivalent	57 sem**	12 sem		300 NA	3000	Not specified	AMFTRB	
WV	State does not license at this level										
WY	LMFT	Equivalent to CA	MFT or equivalent	33 sem	18 sem	Not specified	1500 max	1500 min	Not specified	AMFTRB	

*American Association of Marriage and Family Therapists

**Accepts only degree programs approved by the Commission on Accreditation in Marriage and Family Therapy Education (COAMFTE)

Blank Page

Attachment B

Blank Page

**BOARD OF BEHAVIORAL SCIENCES
BUSINESS AND PROFESSIONS CODE
SECTIONS 4980.37, 4980.39, 4980.40, 4980.41, 4980.43, 4980.80, 4980.90**

§4980.37. DEGREE PROGRAM; COURSE OF STUDY AND PROFESSIONAL TRAINING

(a) In order to provide an integrated course of study and appropriate professional training, while allowing for innovation and individuality in the education of marriage and family therapists, a degree program which meets the educational qualifications for licensure shall include all of the following:

(1) Provide an integrated course of study that trains students generally in the diagnosis, assessment, prognosis, and treatment of mental disorders.

(2) Prepare students to be familiar with the broad range of matters that may arise within marriage and family relationships.

(3) Train students specifically in the application of marriage and family relationship counseling principles and methods.

(4) Encourage students to develop those personal qualities that are intimately related to the counseling situation such as integrity, sensitivity, flexibility, insight, compassion, and personal presence.

(5) Teach students a variety of effective psychotherapeutic techniques and modalities that may be utilized to improve, restore, or maintain healthy individual, couple, and family relationships.

(6) Permit an emphasis or specialization that may address any one or more of the unique and complex array of human problems, symptoms, and needs of Californians served by marriage and family therapists.

(7) Prepare students to be familiar with cross-cultural mores and values, including a familiarity with the wide range of racial and ethnic backgrounds common among California's population, including, but not limited to, Blacks, Hispanics, Asians, and Native Americans.

(b) Educational institutions are encouraged to design the practicum required by subdivision (b) of Section 4980.40 to include marriage and family therapy experience in low-income and multicultural mental health settings.

§4980.39. ADDITIONAL COURSEWORK

(a) Any applicant for licensure as a marriage and family therapist who began graduate study on or after January 1, 2004, shall complete, as a condition of licensure, a minimum of 10 contact hours of coursework in aging and long-term care, which could include, but is not limited to, the biological, social, and psychological aspects of aging.

(b) Coursework taken in fulfillment of other educational requirements for licensure pursuant to this chapter, or in a separate course of study, may, at the discretion of the board, fulfill the requirements of this section.

(c) In order to satisfy the coursework requirement of this section, the applicant shall submit to the board a certification from the chief academic officer of the educational institution from which the applicant graduated stating that the coursework required by this section is included within

the institution's required curriculum for graduation, or within the coursework, that was completed by the applicant.

(d) The board shall not issue a license to the applicant until the applicant has met the requirements of this section.

§4980.40. QUALIFICATIONS

To qualify for a license, an applicant shall have all the following qualifications:

(a) Applicants shall possess a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, or counseling with an emphasis in either marriage, family, and child counseling or marriage and family therapy, obtained from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau for Private Postsecondary and Vocational Education. The board has the authority to make the final determination as to whether a degree meets all requirements, including, but not limited to, course requirements, regardless of accreditation or approval. In order to qualify for licensure pursuant to this subdivision, a doctor's or master's degree program shall be a single, integrated program primarily designed to train marriage and family therapists and shall contain no less than 48 semester or 72 quarter units of instruction. The instruction shall include no less than 12 semester units or 18 quarter units of coursework in the areas of marriage, family, and child counseling, and marital and family systems approaches to treatment.

The coursework shall include all of the following areas:

(1) The salient theories of a variety of psychotherapeutic orientations directly related to marriage and family therapy, and marital and family systems approaches to treatment.

(2) Theories of marriage and family therapy and how they can be utilized in order to intervene therapeutically with couples, families, adults, children, and groups.

(3) Developmental issues and life events from infancy to old age and their effect upon individuals, couples, and family relationships. This may include coursework that focuses on specific family life events and the psychological, psychotherapeutic, and health implications that arise within couples and families, including, but not limited to, childbirth, child rearing, childhood, adolescence, adulthood, marriage, divorce, blended families, stepparenting, and geropsychology.

(4) A variety of approaches to the treatment of children. The board shall, by regulation, set forth the subjects of instruction required in this subdivision.

(b) (1) In addition to the 12 semester or 18 quarter units of coursework specified above, the doctor's or master's degree program shall contain not less than six semester or nine quarter units of supervised practicum in applied psychotherapeutic techniques, assessment, diagnosis, prognosis, and treatment of premarital, couple, family, and child relationships, including dysfunctions, healthy functioning, health promotion, and illness prevention, in a supervised clinical placement that provides supervised fieldwork experience within the scope of practice of a marriage and family therapist.

(2) For applicants who enrolled in a degree program on or after January 1, 1995, the practicum shall include a minimum of 150 hours of face-to-face experience counseling individuals, couples, families, or groups.

(3) The practicum hours shall be considered as part of the 48 semester or 72 quarter unit requirement.

(c) As an alternative to meeting the qualifications specified in subdivision (a), the board shall accept as equivalent degrees, those master's or doctor's degrees granted by educational institutions whose degree program is approved by the Commission on Accreditation for Marriage and Family Therapy Education.

(d) All applicants shall, in addition, complete the coursework or training specified in Section 4980.41.

(e) All applicants shall be at least 18 years of age.

(f) All applicants shall have at least two years' experience that meets the requirements of Section 4980.43.

(g) The applicant shall pass a board administered written or oral examination or both types of examinations, except that an applicant who passed a written examination and who has not taken and passed an oral examination shall instead be required to take and pass a clinical vignette written examination.

(h) The applicant shall not have committed acts or crimes constituting grounds for denial of licensure under Section 480. The board shall not issue a registration or license to any person who has been convicted of a crime in this or another state or in a territory of the United States that involves sexual abuse of children or who is required to register pursuant to Section 290 of the Penal Code or the equivalent in another state or territory.

(i) (1) An applicant applying for intern registration who, prior to December 31, 1987, met the qualifications for registration, but who failed to apply or qualify for intern registration may be granted an intern registration if the applicant meets all of the following criteria:

(A) The applicant possesses a doctor's or master's degree in marriage, family, and child counseling, marital and family therapy, psychology, clinical psychology, counseling psychology, counseling with an emphasis in marriage, family, and child counseling, or social work with an emphasis in clinical social work obtained from a school, college, or university currently conferring that degree that, at the time the degree was conferred, was accredited by the Western Association of Schools and Colleges, and where the degree conferred was, at the time it was conferred, specifically intended to satisfy the educational requirements for licensure by the Board of Behavioral Sciences.

(B) The applicant's degree and the course content of the instruction underlying that degree have been evaluated by the chief academic officer of a school, college, or university accredited by the Western Association of Schools and Colleges to determine the extent to which the applicant's degree program satisfies the current educational requirements for licensure, and the chief academic officer certifies to the board the amount and type of instruction needed to meet the current requirements.

(C) The applicant completes a plan of instruction that has been approved by the board at a school, college, or university accredited by the Western Association of Schools and Colleges that the chief academic officer of the educational institution has, pursuant to subparagraph (B), certified will meet the current educational requirements when considered in conjunction with the original degree.

(2) A person applying under this subdivision shall be considered a trainee, as that term is defined in Section 4980.03, once he or she is enrolled to complete the additional coursework necessary to meet the current educational requirements for licensure.

(j) An applicant for licensure trained in an educational institution outside the United States shall demonstrate to the satisfaction of the board that he or she possesses a qualifying degree that is equivalent to a degree earned from a school, college, or university accredited by the Western Association of Schools and Colleges, or approved by the Bureau of Private Postsecondary and Vocational Education. These applicants shall provide the board with a comprehensive evaluation of the degree performed by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES), and shall provide any other documentation the board deems necessary.

§4980.41. ELIGIBILITY TO SIT FOR LICENSING EXAMINATIONS; COURSEWORK OR TRAINING

All applicants for licensure shall complete the following coursework or training in order to be eligible to sit for the licensing examinations as specified in subdivision (g) of Section 4980.40:

(a) A two semester or three quarter unit course in California law and professional ethics for marriage and family therapists, which shall include, but not be limited to, the following areas of study:

(1) Contemporary professional ethics and statutory, regulatory, and decisional laws that delineate the profession's scope of practice.

(2) The therapeutic, clinical, and practical considerations involved in the legal and ethical practice of marriage and family therapy, including family law.

(3) The current legal patterns and trends in the mental health profession.

(4) The psychotherapist/patient privilege, confidentiality, the patient dangerous to self or others, and the treatment of minors with and without parental consent.

(5) A recognition and exploration of the relationship between a practitioner's sense of self and human values and his or her professional behavior and ethics.

This course may be considered as part of the 48 semester or 72 quarter unit requirements contained in Section 4980.40.

(b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(c) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25, and any regulations promulgated thereunder. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.

(d) For persons who began graduate study on or after January 1, 1986, a master's or doctor's degree qualifying for licensure shall include specific instruction in alcoholism and other chemical substance dependency as specified by regulation. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it shall be considered as part of the 48 semester or 72 quarter unit requirement contained in Section 4980.40.

(e) For persons who began graduate study during the period commencing on January 1, 1995, and ending on December 31, 2003, a master's or doctor's degree qualifying for licensure shall include coursework in spousal or partner abuse assessment, detection, and intervention. For persons who began graduate study on or after January 1, 2004, a master's or doctor's degree qualifying for licensure shall include a minimum of 15 contact hours of coursework in spousal or partner abuse assessment, detection, and intervention strategies, including knowledge of community resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. The requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(f) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychological testing. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.40.

(g) For persons who began graduate study on or after January 1, 2001, an applicant shall complete a minimum of a two semester or three quarter unit survey course in psychopharmacology. When coursework in a master's or doctor's degree program is acquired to satisfy this requirement, it may be considered as part of the 48 semester or 72 quarter unit requirement of Section 4980.40.

(h) The requirements added by subdivisions (f) and (g) are intended to improve the educational qualifications for licensure in order to better prepare future licentiates for practice, and are not intended in any way to expand or restrict the scope of licensure for marriage and family therapists.

§4980.43. PROFESSIONAL EXPERIENCE; INTERNS OR TRAINEES

(a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

(1) A minimum of 3,000 hours completed during a period of at least 104 weeks.

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctor's degree.

(4) Not more than 1,300 hours of experience obtained prior to completing a master's or doctor's degree. This experience shall be composed as follows:

(A) Not more than 750 hours of counseling and direct supervisor contact

(B) Not more than 250 hours of professional enrichment activities.

(C) Not more than 100 hours of personal psychotherapy. The applicant shall be credited for three hours of experience for each hour of personal psychotherapy.

(5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.

(6) No hours of experience gained more than six years prior to the date the application for licensure was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (b) of Section 4980.40 shall be exempt from this six-year requirement.

(7) Not more than 1000 hours of experience for direct supervisor contact and professional activities.

(8) Not more than 500 hours of experience providing group therapy or group counseling.

(9) Not more than 250 hours of experience administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes, or writing process notes.

(10) Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.

(11) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children.

(b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(c) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting.

(2) Each individual supervised after being granted a qualifying degree shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting in which experience is gained.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons.

(4) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios specified in this subdivision shall be applicable to all hours gained on or after January 1, 1995.

(d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(e) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (d), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee enumerated in subdivision (f) of Section 4980.40. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(f) Except as provided in subdivision (g), all persons shall register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure.

(g) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.

(h) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in the employer's business.

(j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive

reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

§4980.80. RECIPROCITY; EQUIVALENT REQUIREMENTS; PAYMENT OF FEES; FURTHER CONDITIONS

The board may issue a license to any person who, at the time of application, has held for at least two years a valid license issued by a board of marriage counselor examiners, marriage therapist examiners, or corresponding authority of any state, if the education and supervised experience requirements are substantially the equivalent of this chapter and the person successfully completes the board administered licensing examinations as specified by subdivision (g) of Section 4980.40 and pays the fees specified. Issuance of the license is further conditioned upon the person's completion of the following coursework or training:

(a) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(b) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(c) A minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 25 and any regulations promulgated thereunder.

(d) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(e) (1) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other requirements for licensure or in a separate course.

(2) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(f) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(g) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(h) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

§4980.90. EXAMINATION; PERSONS WITH EDUCATION AND EXPERIENCE WHILE RESIDING OUTSIDE OF CALIFORNIA

(a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board.

(b) Education gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed all of the following:

(1) A two semester or three quarter unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(3) A minimum of 10 contact hours of training or coursework in sexuality as specified in Section 25 and any regulations promulgated thereunder.

(4) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(5) (A) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other educational requirements for licensure or in a separate course.

(B) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(6) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(7) On and after January 1, 2003, a minimum of a two semester or three quarter unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

(c) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant has been granted a degree in a single integrated program primarily designed to train marriage, family, and child counselors and if the applicant's education meets the requirements of Sections 4980.37 and 4980.40. The degree title and number of units in the degree program need not be identical to those required by subdivision (a) of Section 4980.40. If the applicant's degree does not contain the number of units required by subdivision (a) of Section 4980.40, the board may, in its discretion, accept the applicant's education as substantially equivalent if the applicant's degree otherwise complies with this section and the applicant completes the units required by subdivision (a) of Section 4980.40.

Blank Page

Item VIII

Blank Page

Memorandum

To: Policy and Advocacy Committee
From: Christy Berger
Legislation Analyst
Date: June 19, 2006
Telephone: (916) 574-7847
Subject: **VIII. Review and Possible Action on Draft Regulations Related to Supervisor Qualifications**

Section 1833.1 of the board's regulations describes the requirements for MFT Intern supervisors including a requirement that the supervisor "...has practiced psychotherapy for at least two years in the five year period immediately preceding any supervision and has averaged at least five patient/client contact hours per week."

Section 1870 of the board's regulations describes the requirements for ASW supervisors including a requirement that the supervisor "...has practiced psychotherapy as part of his/her clinical experience for at least two years within the last five years immediately preceding supervision."

The board currently interprets supervision of an IMF or ASW to be "psychotherapy" for the purposes of meeting the practice requirement in Sections 1833.1 and 1870. The proposed regulation would make this interpretation explicit in the regulation. It would also delete the requirements for supervisors of MFT Interns to average five patient/client contact hours per week.

At its February 2003 meeting, the Board approved this proposal. However, the rulemaking process was never initiated for these changes. The proposed changes and recent revisions to the proposed language were taken up for review again at the January 2006 meeting of the Board's Policy and Advocacy Committee. However, the Committee declined to take action until receiving the results of the supervision survey.

At its April 2006 meeting, the Policy and Advocacy Committee agreed to recommend to the Board that the proposed language be adopted. However, at the May 2006 Board meeting, the Board expressed concern that some licensees would become a supervisor after only 2 yrs of licensure, never see clients again, and yet remain a supervisor for the rest of their working life. However, there were concerns expressed by stakeholders that the current restrictions are decreasing the number of licensees qualified to supervise. The Board decided to return this proposal back to the Committee for further review and discussion.

Attachments

Proposed Language Section 1833.1
Proposed Language Section 1870

Blank Page

Attachment A

Blank Page

BOARD OF BEHAVIORAL SCIENCES

Amend Section 1833.1 of Division 18 of Title 16 as follows:

1833.1. REQUIREMENTS FOR SUPERVISORS

~~(a) Any person supervising a trainee or an intern or trainee (hereinafter "supervisor") within California shall comply with the requirements set forth below and shall, prior to the commencement of such supervision, sign under penalty of perjury the "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern" revised 2-05 requiring that: below.~~

(a) Prior to the commencement of supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern" revised 12-05 requiring that:

(1) The supervisor possess and maintains a current valid California license as either a marriage and family therapist, licensed clinical social worker, licensed psychologist, or physician who is certified in psychiatry as specified in Section ~~4980.40 (f)~~ 4980.03 (g) of the Code and has been so licensed in California for at least two years prior to commencing any supervision; or

(A) Provides supervision only to trainees at an academic institution that offers a qualifying degree program as specified in Section 4980.40 (a) of the Code; and

(B) Has been licensed in California as specified in Section ~~4980.40 (f)~~ 4980.03 (g) of the Code, and in any other state, for a total of at least two years prior to commencing any supervision.

~~(2) If such supervisor is A supervisor who is~~ not licensed as a marriage and family therapist, ~~he or she~~ shall have sufficient experience, training, and education in marriage and family therapy to competently practice marriage and family therapy in California.

(3) The supervisor keeps himself or herself informed of developments in marriage and family therapy and in California law governing the practice of marriage and family therapy.

(4) The supervisor has and maintains a current license in good standing and will immediately notify the trainee or intern or trainee of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or any lapse in licensure, that affects the supervisor's ability or right to supervise.

(5) The supervisor has practiced psychotherapy or provided direct supervision of trainees, interns, or associate clinical social workers who perform psychotherapy for at least two (2) years within the five (5) year period immediately preceding any supervision and has averaged at least five (5) patient/client contact hours or direct supervision hours per week.

(6) The supervisor has had sufficient experience, training, and education in the area of clinical supervision to competently supervise trainees or interns.

(A) ~~Effective January 1, 2000, supervisors~~ Supervisors who are licensed by the board shall complete a minimum of six (6) hours of supervision training or coursework every two (2) years. This training or coursework may apply towards the continuing education requirements set forth in Sections 4980.54 and 4996.22 of the Code.

~~(B) Supervisors who are licensed by the board who have completed a minimum of six (6) hours of supervision training or coursework between January 1, 1997, and December 31, 1999, may apply that training towards the requirement described in subsection (A).~~

~~(C) (B) Supervisors who are licensed by the board who commence supervision on and after January 1, 2000, and have not met requirements of subsection paragraph (A), shall complete a minimum of six (6) hours of supervision training or coursework within sixty (60) days of commencement of supervision.~~

(7) The supervisor knows and understands the laws and regulations pertaining to both the supervision of trainees and interns and the experience required for licensure as a marriage and family therapist.

(8) The supervisor shall ensure that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the trainee or intern or trainee.

(9) The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the trainee or intern or trainee by direct observation, review of audio or video tapes of therapy, review of progress and process notes and other treatment records, or by any other means deemed appropriate by the supervisor.

(10) The supervisor shall address with the trainee or intern or trainee the manner in which emergencies will be handled.

(b) Each supervisor shall provide the trainee or intern or trainee with the original signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 12-05 prior to the commencement of any counseling or supervision. ~~The intern shall provide the board with his or her signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 12-05 from each supervisor upon application for licensure. The trainee shall provide the board with his or her signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 12-05 from each supervisor upon application for internship.~~

(1) Trainees shall provide the board with the signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 12-05 from each supervisor upon application for internship.

(2) Interns shall provide the board with the signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 12-05 from each supervisor upon application for licensure.

(c) A supervisor shall give at least one (1) week's written notice to ~~an~~ a trainee or intern or trainee of the supervisor's intent not to certify any further hours of experience for such

person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(d) The supervisor shall obtain from ~~any~~ each trainee or intern ~~or trainee~~ for ~~which~~ whom supervision will be provided, the name, address, and telephone number of the trainee's or intern's ~~or trainee's~~ most recent supervisor and employer.

(e) In any setting that is not a private practice, a supervisor shall evaluate the site(s) where ~~an~~ a trainee or intern ~~or trainee~~ will be gaining hours of experience toward licensure and shall determine that: (1) the site(s) provides experience which is within the scope of marriage and family therapy; and (2) the experience is in compliance with the requirements set forth in this section.

(f) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

~~(g) The supervisor responsibility statement required by this section shall be used for supervisorial relationships commencing on or after 1-1-98.~~

~~(h)~~ (g) The board shall not deny hours of experience gained towards licensure by any supervisee due to failure of his or her supervisor to complete the training or coursework requirements in ~~subsection (a) (6)~~ subparagraph (a)(6)(A).

NOTE: Authority cited: Section 4980.35, 4980.40(f) and 4980.60, Business and Professions Code. Reference: Sections 4980.35, 4980.40(f), 4980.42 through 4980.45, 4980.54 and 4996.22, Business and Professions Code.

Blank Page

Attachment B

Blank Page

BOARD OF BEHAVIORAL SCIENCES

PROPOSED LANGUAGE

Amend Section 1870 of Division 18 of Title 16 as follows:

1870. REQUIREMENTS FOR ASSOCIATE CLINICAL SOCIAL WORKER SUPERVISORS

~~(a) Any person supervising an associate clinical social worker registered with the board on and after May 10, 1999, (hereinafter called "supervisor") within California shall comply with the requirements set forth below and shall, prior to the commencement of such supervision, sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised 07/05), which requires that: below.~~

(a) Prior to the commencement of supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised 12/05), which requires that:

(1) The supervisor possesses and will maintain a current valid California license as ~~either~~ a licensed clinical social worker or a licensed mental health professional acceptable to the Board as specified in ~~Section 4996.21(a) of the Code and Section 1874 of California Code of Regulations.~~

(2) The supervisor has and will maintain a current license in good standing and will immediately notify the associate of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or any lapse in licensure, that affects the supervisor's ability or right to supervise.

(3) The supervisor has practiced psychotherapy or provided direct supervision of associates, or marriage and family therapist interns or trainees who perform psychotherapy as part of his/her clinical experience for at least two (2) years within the last five (5) years immediately preceding supervision and has averaged at least five (5) patient/client contact hours or direct supervision hours per week.

(4) The supervisor has had sufficient experience, training and education in the area of clinical supervision to competently supervise associates. ~~Effective January 1, 2001, supervisors who are licensed by the board shall have:~~

(A) Effective January 1, 2001, supervisors who are licensed by the board shall have A a minimum of fifteen (15) contact hours in supervision training obtained from a state agency or approved continuing education provider. This training may apply towards the approved continuing education requirements set forth in Sections 4980.54 and 4996.22 of the Code. The content of such training shall include, but not be limited to:

~~1. familiarity~~ (i) Familiarity with supervision literature through reading assignments specified by course instructors;

~~2. facilitation~~ (ii) Facilitation of therapist-client and supervisor-therapist relationships;

~~3. evaluation~~ (iii) Evaluation and identification of problems in therapist-client and supervisor-therapist relationships;

~~4. structuring~~ (iv) Structuring to maximize supervision, including times and conditions of supervision sessions, problem solving ability, and implementing supervisor interventions within a range of supervisory modalities including live, videotape, audiotape, and case report methods;

~~5. knowledge~~ (v) Knowledge of contextual variables such as culture, gender, ethnicity, and economic issues; and

~~6. the~~ (vi) The practice of clinical social work, including the mandated reporting laws, and knowledge of ethical and legal issues.

(5) The supervisor knows and understands the laws and regulations pertaining to both supervision of associates and the experience required for licensure as a clinical social worker.

~~(6) The supervisor shall ensure that the extent, kind and quality of clinical social work performed is consistent with the training and experience of the person being supervised and shall review client/patient records, monitor and evaluate assessment and treatment decisions of the associate clinical social worker, and monitor and evaluate the ability of the associate to provide services at the site(s) where he or she will be practicing and to the particular clientele being served, and ensure compliance with all laws and regulations governing the practice of clinical social work.~~

(6) The supervisor shall do all of the following:

(A) Ensure that the extent, kind and quality of clinical social work performed by the associate is consistent with the training and experience of the person being supervised.

(B) Review client/patient records and monitor and evaluate assessment and treatment decisions of the associate clinical social worker.

(C) Monitor and evaluate the ability of the associate to provide services at the site(s) where he or she will be practicing and to the particular clientele being served.

(D) Ensure compliance with all laws and regulations governing the practice of clinical social work.

~~(7) Effective January 1, 1999, the~~ The supervisor and the associate shall develop the "Supervisory Plan" as described in Section 1870.1 ~~of the California Code of Regulations.~~ This ~~The~~ associate shall submit the original signed plan for each supervisor ~~shall be submitted to the board upon application for licensure.~~

(8) The supervisor shall provide the ~~board~~ associate with the original, signed "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised 12-05), ~~within 30 days of prior to commencement of any supervision. A copy of this form shall be provided to the associate by the supervisor.~~ The associate shall provide the board with the original signed form for each supervisor upon application for licensure.

(9) A supervisor shall give at least one (1) week's written notice to an associate of the supervisor's intent not to certify any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(10) ~~Effective January 1, 1999, the~~ The supervisor shall complete an assessment of the ongoing strengths and limitations of the associate. The assessments shall be completed at least once a year and at the completion or termination of supervision. A copy of all assessments shall be provided to the associate by the supervisor.

(11) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

(b) The board shall not deny hours of experience gained toward licensure by any associate due to the failure of his or her supervisor to complete the training requirements specified in subparagraph (a)(4)(A).

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: ~~Section~~ Sections 4980.54, 4996.21, 4996.22, and 4996.23, Business and Professions Code.

Blank Page

Item IX

Blank Page

State of California

Memorandum

To: Policy and Advocacy Committee

Date: June 19, 2006

From: Paul Riches

Telephone: (916) 574-7840

Subject: Reporting Settlements and Arbitrations

The board revised its public disclosure and complaint disclosure policies at its May 2006 meeting. Among the changes to these policies was requiring the board to disclose malpractice settlements and arbitrations in excess of \$10,000. This change was made to conform the board's disclosure policy with the California Public Records Act and provisions of the Business and Professions Code that require settlements and arbitrations in excess of \$10,000 be reported to the board by insurance companies(see attachment A). However, the board seldom receives such reports and the committee indicated that it wanted to address the lack of reporting at a future meeting.

Staff contacted a number of professional organizations to get information regarding the major malpractice insurance companies for their members. It appears that there are three primary organizations providing professional liability coverage for mental health professionals:

- Healthcare Providers Service Organization (HPSO),
- American Professional Agency,
- CPH and Associates.

The absence of reporting is likely a consequence of the insurers all being located outside of California and not being familiar with the existing reporting requirements. Staff will contact each insurer and inform them of the reporting mandates and processes.

Blank Page

Item X

Blank Page

Memorandum

To: Policy and Advocacy Committee
From: Christy Berger
Legislation Analyst
Date: June 19, 2006
Telephone: (916) 574-7847
Subject: X. Review and Possible Action on Technical Regulation Cleanup Related to LEP and Board Administration Statutory Changes

Background

The Board is seeking to update the Licensed Educational Psychologist (LEP) statutes and the Board's administration statutes. We expect this proposal to be amended into a bill very soon (Senate Bill 1475, Figueroa). The Board's regulations will need some technical amendments in order to conform to these statutory changes.

Discussion

All proposed changes pertain to the LEP regulations. No changes will be needed to administration-related regulations.

Section 1854: The proposed amendment to this section is needed because the current statute, section 4986.20(a) references "...a **degree** deemed equivalent by the board..." However, the new statute, section 4989.30(a) instead references an "...**educational institution** approved by the board..."

Section 1855: This section pertains to outdated grandparenting provisions and is proposed to be deleted.

Section 1856: Subdivision (d) pertains to outdated grandparenting provisions and is proposed to be deleted.

Section 1857: This section pertains to outdated grandparenting provisions and is proposed to be deleted.

Section 1858: The content of this section has been included in section 4989.80 of the proposed statute in its entirety, except for subdivisions (b) and (j).

Recommendation

The Committee recommend that the Board direct staff to initiate a rulemaking to implement these changes to take effect on or after January 1, 2007.

Attachments

Proposed Language (Regulations)
Proposed Language (Statutes)

Blank Page

Attachment A

Blank Page

**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE
Title 16, California Code of Regulations**

Amend Sections 1854, 1856, 1858

Delete Sections 1855, 1857

ARTICLE 5. LICENSED EDUCATIONAL PSYCHOLOGISTS

§1854.

~~Degrees deemed equivalent to those specified in Section 4986.20(a) of the Code shall include a master's degree or its equivalent obtained from a college or university accredited by one of the following agencies:~~ Educational institutions approved by the board are defined as a college or university accredited by one of the following agencies:

- (a) Western Association of Schools and Colleges.
- (b) Northwest Association of Secondary and Higher Schools.
- (c) Middle States Association of Colleges and Secondary Schools.
- (d) New England Association of Colleges and Secondary Schools.
- (e) North Central Association of Colleges and Secondary Schools.
- (f) Southern Association of Colleges and Schools.
- (g) The Credentials Evaluation Service of the International Education Research Foundation, Inc., where it evaluates the foreign degree as being equivalent to the required degree or degrees.

Authority cited: Section ~~4980.60~~ 4990.20(a), Business and Professions Code. Reference: Section ~~4986.20(a)~~ 4989.30(a), Business and Professions Code.

§1855.

~~Semester hours in instructing a course in pupil personnel services approved by the board and offered by an institution accredited by one of the accrediting agencies set forth in Section 1854 above shall be deemed equivalent, within the meaning of Section 4986.20(d) of the Code, to semester hours of postgraduate work devoted to pupil personnel services under the following conditions:~~

- ~~(1) The applicant has instructed the particular course for at least two semesters;~~
- ~~(2) The particular course has not been submitted by the applicant for credit as a postgraduate course; and~~

~~(3) The particular course is not a practicum or field work course. In addition to the above, the board may, in its discretion, recognize other experience as equivalent to semester hours of postgraduate work devoted to pupil personnel services.~~

~~Authority cited: Section 4980.60, Business and Professions Code. Reference: Section 4986.20, Business and Professions Code.~~

§1856.

(a) No more than one year of experience will be granted for any 12 month period.

(b) Part time experience may be accumulated provided that the experience is obtained within six (6) calendar years.

(c) Experience as a credentialed school psychologist employed by a parochial or private school may, at the board's discretion, be deemed equivalent to experience as a credentialed school psychologist in the public schools.

~~(d) Persons meeting this requirement must verify this experience by written statements from their sponsors as specified in Section 4986.20 of the Code. These statements shall include information regarding the applicant's:~~

~~(1) Skill in the administration of standardized individual tests for subjects varying from three (3) to twenty one (21) years of age.~~

~~(2) Skill in the interpretation of results to parents, teachers, administrators, admissions committees, or other appropriate parties.~~

~~(3) Skill in the classification of subjects for special programming based on existing legislation.~~

~~(4) Recognition and diagnosis of learning problems with recommendations for solution of the problems.~~

~~(5) Recognition and amelioration of behavior problems.~~

~~(6) Interpretation of scores of standardized group tests.~~

~~(7) Skills in the use of psychological counseling or other therapeutic techniques with children and parents.~~

~~Authority cited: Section 4980.60 4990.20(a), Business and Professions Code. Reference: Section 4986.20 4989.30(e), Business and Professions Code.~~

§1857.

~~(a) An applicant who has completed a minimum of seven hundred and twenty (720) clock hours under professional supervision as specified herein in the following experiences shall be deemed to have suitable experience equivalent to one year of supervised professional experience in an accredited school psychology program, or under the direction of a licensed psychologist:~~

~~(1) Utilization of all instruments presented within the prescribed course of study in the educational institution attended, with a wide variety of subjects (generally inclusive of WAIS, WISC, Binet, and group tests).~~

~~(2) Administration of additional tests commonly employed in the field by school psychologists.~~

~~(3) Consulting with teachers concerning learning and behavior problems of children enrolled in special education programs.~~

~~(4) Referral to and use of community agencies.~~

~~(5) Oral and written communication of results in accordance with the local supervisor's requirements.~~

~~(b) The local supervisor shall consult with the intern at least once weekly during the period of internship and shall:~~

~~(1) Possess a valid credential in school psychology; and~~

~~(2) Have a minimum of two (2) years experience in the field of school psychology.~~

~~(c) The general supervisor shall arrange for and coordinate intern placement with the local supervisor, and shall consult with the intern and/or the local supervisor at least three times during the period of internship. A general supervisor shall be qualified as one of the following:~~

~~(1) A credentialed school psychologist;~~

~~(2) A licensed psychologist;~~

~~(3) A licensed educational psychologist;~~

~~(4) A state or accredited training institution designated supervisor of school psychology trainees.~~

~~Authority cited: Section 4980.60, Business and Professions Code. Reference: Section 4980.20, Business and Professions Code.~~

§1858.

The Board may suspend or revoke the license of a licensee who:

~~(a) Misrepresents the type or status of license held by the licensee.~~

~~(b) (a) Impersonates a licensee or who allows another person to use his or her license.~~

~~(c) Aids or abets an unlicensed person to engage in conduct requiring a license.~~

~~(d) Intentionally or recklessly causes physical or emotional harm to a client.~~

~~(e) Commits any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions or duties of a licensee.~~

~~(f) When employed by another person or agency, encourages, either orally or in writing, the employer's or agency's clientele to utilize his or her private practice for further counseling without the approval of the employing agency or administration.~~

~~(g) Misrepresents or permits the misrepresentation of his or her professional qualifications, affiliations, or purposes.~~

~~(h) Has sexual relations with a client, or who solicits sexual relations with a client, or who commits an act of sexual abuse, or who commits an act of sexual misconduct, or who commits an act punishable as a sexual related crime if such act or solicitation is substantially related to the qualifications, functions or duties of an educational psychologist.~~

~~(i) Performs or holds himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.~~

~~(j) (b) Permits a person under his or her supervision or control to perform or permits such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.~~

~~(k) Fails to maintain the confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client during the course of treatment and all information about the client which is obtained from tests or other such means.~~

~~(l) Prior to the commencement of treatment, fails to disclose to the client, or prospective client, the fee to be charged for the professional services, or the basis upon which such fee will be computed.~~

~~(m) Advertises in a manner which is false or misleading.~~

~~(n) Reproduces or describes in public or in publications subject to general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate such test or device. An Educational Psychologist shall limit access to such test or device to persons with professional interests who can be expected to safeguard their use.~~

~~(o) Fails to comply with the child abuse reporting requirements of Penal Code Section 11166.~~

~~(p) Fails to comply with the elder and adult dependent abuse reporting requirements of Welfare and Institutions Code Section 15630.~~

Authority cited: Section ~~4987~~ 4989.18, Business and Professions Code. Reference: Sections ~~730~~, ~~4986.70~~ 4989.80, ~~4986.71~~, and ~~4987~~ 4989.18, Business and Professions Code; and Section ~~11166~~, Penal Code, and Section ~~15630~~, Welfare and Institutions Code.

Attachment B

Blank Page

AMENDED IN ASSEMBLY JUNE 19, 2006

AMENDED IN SENATE MAY 2, 2006

AMENDED IN SENATE APRIL 17, 2006

SENATE BILL

No. 1475

Introduced by Committee on Business, Professions and Economic Development (Senators Figueroa (Chair), Aanestad, Florez, Morrow, and Simitian)

February 23, 2006

An act to amend Sections 2533, 4104, 4162, 4180, 4181, 4182, 4190, 4191, 4192, 4546, ~~and 4548~~ of 4548, 4994, 4996.17, 4999, 4999.1, and 4999.4 of, to amend the heading of Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of, to add Chapter 13.5 (commencing with Section 4989.10) and Chapter 13.7 (commencing with Section 4990) to Division 2 of, to add Sections 4991 and 4991.2 to, to repeal Article 5 (commencing with Section 4986) of Chapter 13 and Article 1 (commencing with Section 4990) of Chapter 14 of Division 2 of, and to repeal Sections 4992.31, 4998.6, 4999.8, and 4999.9 of, the Business and Professions Code, relating to the healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1475, as amended, Committee on Business, Professions and Economic Development. Healing arts.

(1) *Existing law creates the Board of Behavioral Sciences and makes it responsible for the licensure and regulation of clinical social workers and educational psychologists. Under existing law, moneys received by the board are deposited into the Behavioral Sciences Fund and are continuously appropriated to the board, other than the*

revenue from fines and penalties. Existing law makes a violation of the provisions regulating these practitioners a crime.

This bill would recast the provisions creating the board. The bill would name provisions regulating social workers the Clinical Social Worker Practice Act and would modify licensure requirements with respect to experience gained outside this state. The bill would also establish the Educational Psychologist Practice Act that would continue the licensure and regulation of educational psychologists by the board. The bill would revise the provisions defining and regulating the practice of educational psychologists and would require licensees to complete continuing education as a prerequisite for licensure renewal. The bill would authorize the board to require those continuing education providers to pay fees to fund the administration of this requirement. Because the bill would direct their deposit into the Behavioral Sciences Fund, it would make an appropriation by increasing the amount of funds in a continuously appropriated fund. The bill would continue to make the violation of provisions regulating educational psychologists punishable as a crime and, because it would prohibit the commission of additional types of conduct, the bill would expand that crime and thereby impose a state-mandated local program.

(2) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy and makes a violation of the act a crime.

Existing law requires every pharmacy to have written policies and procedures for detecting certain impairments or drug-related acts among licensees employed by or with the pharmacy.

This bill would instead require every pharmacy to have written policies and procedures for addressing those impairments or acts by those licensees.

Existing law requires an applicant for a wholesaler license to submit a surety bond or other security to the board, as specified.

This bill would exempt a government-owned and operated wholesaler from that requirement.

Under existing law, specified clinics, including surgical clinics, may purchase drugs at wholesale for administration or dispensing to the clinic's patients. Existing law requires these clinics to maintain certain records for at least 7 years for inspection and to obtain a license from the board. Existing law specifies that each license is to be issued to a specific clinic and for a specific location. Existing law requires those

clinics, when applying for a license, to show evidence that a professional director, as defined, is responsible for the provision of pharmacy services. Existing law also requires those clinics, other than surgical clinics, to retain a consulting pharmacist to perform specified tasks, including certifying in writing, at least twice a year, that the clinic is or is not operating in compliance with specified requirements, and requires the most recent certification to be submitted with the clinic's license renewal application.

This bill would instead require those clinics to maintain those records for at least 3 years and would require a separate license for each clinic location. The bill would expand the definition of "professional director" to include a dentist or podiatrist in certain circumstances. The bill would require a clinic to notify the board of any change of address, any change of the board of directors of a clinic's nonprofit corporation or, in the case of a surgical clinic, any proposed change in ownership, as specified, and any change in professional director. The bill would require surgical clinics also to retain a consulting pharmacist to perform those specified tasks. The bill would require a consulting pharmacist to provide the certification, with any recommended corrective actions, in writing quarterly and to keep the certification on file for 3 years. Because the bill would specify additional requirements under the Pharmacy Law, a violation of which would be a crime, it would impose a state-mandated local program. The bill would make other technical changes.

(2)

(3) Existing law, the Psychiatric Technicians Law, provides for the licensure and regulation of psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians, imposes specified fees in connection with the issuance of licenses by the board, and authorizes the board to fix certain of those fees within specified minimums and maximums. Existing law requires the board to pay all revenue received into the State Treasury for credit to the Vocational Nursing and Psychiatric Technicians Fund. Existing law prohibits the board from maintaining a reserve balance greater than 3 months of the appropriated operating expenditures of the board in any fiscal year.

This bill would delete that prohibition and reduce the minimum amount of certain fees fixed by the board.

(3)

(4) *Existing law provides for the registration of telephone medical advice services with the Telephone Medical Advice Services Bureau of*

the Department of Consumer Affairs, and prohibits a business entity from providing those services to a patient at a California address unless the person is registered. Under existing law, any business entity that submits proof of accreditation by certain specified health committees and organizations is deemed provisionally registered.

This bill would delete that provision and modify the application requirements for registration.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2533 of the Business and Professions
 2 Code is amended to read:
 3 2533. The board may refuse to issue, or issue subject to terms
 4 and conditions, a license on the grounds specified in Section 480,
 5 or may suspend, revoke, or impose terms and conditions upon the
 6 license of any licensee if he or she has been guilty of
 7 unprofessional conduct. Unprofessional conduct shall include,
 8 but shall not be limited to, the following:
 9 (a) Conviction of a crime substantially related to the
 10 qualifications, functions, and duties of a speech-language
 11 pathologist or audiologist, as the case may be. The record of the
 12 conviction shall be conclusive evidence thereof.
 13 (b) Securing a license by fraud or deceit.
 14 (c) (1) The use or administering to himself or herself, of any
 15 controlled substance; (2) the use of any of the dangerous drugs
 16 specified in Section 4022, or of alcoholic beverages, to the
 17 extent, or in a manner as to be dangerous or injurious to the
 18 licensee, to any other person, or to the public, or to the extent that
 19 the use impairs the ability of the licensee to practice
 20 speech-language pathology of audiology safely; (3) more than
 21 one misdemeanor or any felony involving the use, consumption,
 22 or self-administration of any of the substances referred to in this

1 (\$20) and may be fixed by the board at an amount no more than
2 fifty dollars (\$50).

3 (k) The biennial fee to be paid upon the filing of an application
4 for renewal for a provider of an approved continuing education
5 course or a course to meet the certification requirements for
6 blood withdrawal shall be in an amount not less than one hundred
7 fifty dollars (\$150), and may be fixed by the board at an amount
8 no more than two hundred dollars (\$200).

9 *SEC. 12. Article 5 (commencing with Section 4986) of*
10 *Chapter 13 of Division 2 of the Business and Professions Code is*
11 *repealed.*

12 *SEC. 13. Chapter 13.5 (commencing with Section 4989.10) is*
13 *added to Division 2 of the Business and Professions Code, to*
14 *read:*

15
16 *CHAPTER 13.5. LICENSED EDUCATIONAL PSYCHOLOGISTS*

17
18 *Article 1. General*

19
20 *4989.10. This chapter shall be known, and may be cited as,*
21 *the Educational Psychologist Practice Act.*

22 *4989.12. The Board of Behavioral Sciences shall administer*
23 *and enforce the provisions of this chapter. For the purposes of*
24 *this chapter it shall be designated as the board.*

25 *4989.14. The practice of educational psychology is the*
26 *performance of any of the following professional functions*
27 *pertaining to academic learning processes or the educational*
28 *system or both:*

29 *(a) Educational evaluation.*

30 *(b) Diagnosis of psychological disorders related to academic*
31 *learning processes.*

32 *(c) Administration of diagnostic tests related to academic*
33 *learning processes including tests of academic ability, learning*
34 *patterns, achievement, motivation, and personality factors.*

35 *(d) Interpretation of diagnostic tests related to academic*
36 *learning processes including tests of academic ability, learning*
37 *patterns, achievement, motivation, and personality factors.*

38 *(e) Providing psychological counseling for individuals,*
39 *groups, and families.*

1 (f) Consultation with other educators and parents on issues of
2 social development and behavioral and academic difficulties.

3 (g) Conducting psychoeducational assessments for the
4 purposes of identifying special needs.

5 (h) Developing treatment programs and strategies to address
6 problems of adjustment.

7 (i) Coordinating intervention strategies for management of
8 individual crises.

9 4989.16. (a) A person appropriately credentialed by the
10 Commission on Teacher Credentialing may perform the functions
11 authorized by that credential in a public school without a license
12 issued under this chapter by the board.

13 (b) Nothing in this chapter shall be construed to constrict,
14 limit, or withdraw the Medical Practice Act (Chapter 5
15 (commencing with Section 2000)), the Nursing Practice Act
16 (Chapter 6 (commencing with Section 2700)), the Psychology
17 Licensing Law (Chapter 6.6 (commencing with Section 2900)),
18 the Marriage and Family Therapist Practice Act (Chapter 13
19 (commencing with Section 4980)), or the Clinical Social Worker
20 Practice Act (Chapter 14 (commencing with Section 4991)).

21 4989.18. The board may, by rules or regulations, adopt,
22 amend, or repeal rules of professional conduct appropriate to the
23 establishment and maintenance of a high standard of integrity
24 and dignity in the profession, provided those rules or regulations
25 are not inconsistent with Section 4989.54. Every person licensed
26 under this chapter shall be governed by those rules of
27 professional conduct.

28 Article 2. Licensure

29
30
31 4989.20. (a) The board may issue a license as an educational
32 psychologist if the applicant satisfies, with proof satisfactory to
33 the board, the following requirements:

34 (1) Possession of, at minimum, a master's degree in
35 psychology, educational psychology, school psychology, or
36 counseling and guidance. This degree shall be obtained from an
37 educational institution approved by the board according to the
38 regulations adopted under this chapter.

39 (2) Attainment of 18 years of age.

1 (3) *No commission of an act or crime constituting grounds for*
2 *denial of licensure under Section 480.*

3 (4) *Successful completion of 60 semester hours of*
4 *postgraduate work in pupil personnel services.*

5 (5) *Completion of three years of full-time experience as a*
6 *credentialed school psychologist in the public schools. At least*
7 *one year of the experience required by this paragraph shall be*
8 *supervised professional experience in an accredited school*
9 *psychology program or obtained under the direction of a*
10 *licensed psychologist or a licensed educational psychologist. The*
11 *applicant shall not be credited with experience obtained more*
12 *than six years prior to filing the application for licensure.*

13 (6) *Passage of an examination specified by the board.*

14 4989.22. (a) *Only persons who satisfy the requirements of*
15 *Section 4989.20 are eligible to take the licensure examination.*

16 (b) *An applicant who fails the written examination may, within*
17 *one year from the notification date of failure, retake the*
18 *examination as regularly scheduled without further application.*
19 *Thereafter, the applicant shall not be eligible for further*
20 *examination until he or she files a new application, meets all*
21 *current requirements, and pays all fees required.*

22 (c) *Notwithstanding any other provision of law, the board may*
23 *destroy all examination materials two years after the date of an*
24 *examination.*

25 4989.24. *The board shall not issue a license to a person who*
26 *has been convicted of a crime in this or any other state or in a*
27 *territory of the United States that involves sexual abuse of*
28 *children or who is required to register pursuant to Section 290 of*
29 *the Penal Code or the equivalent in another state or territory.*

30 4989.26. *The board may refuse to issue a license to an*
31 *applicant if it appears he or she may be unable to practice safely*
32 *due to mental illness or chemical dependency. The procedures*
33 *set forth in Article 12.5 (commencing with Section 820) of*
34 *Chapter 1 shall apply to a denial of a license pursuant to this*
35 *section.*

36 4989.28. *The board may deny an application for licensure if*
37 *the applicant is or has been guilty of unprofessional conduct as*
38 *described in Section 4989.54.*

1 Article 3. *Renewal and Continuing Education*

2
3 4989.30. *A license issued under this chapter shall expire no*
4 *later than 24 months after its date of issue.*

5 4989.32. *To renew an unexpired license, the licensee shall,*
6 *on or before the expiration date of the license, take all of the*
7 *following actions:*

8 (a) *Apply for renewal on a form prescribed by the board.*

9 (b) *Pay a renewal fee prescribed by the board.*

10 (c) *Inform the board of whether he or she has been convicted,*
11 *as defined in Section 490, of any misdemeanor or felony and*
12 *whether any disciplinary action has been taken by a regulatory*
13 *or licensing board in this or any other state after the prior*
14 *issuance or renewal of his or her license.*

15 (d) *Complete the continuing education requirements described*
16 *in Section 4989.34.*

17 4989.34. (a) *To renew his or her license, a licensee shall*
18 *certify to the board, on a form prescribed by the board,*
19 *completion in the preceding two years of not less than 60 hours*
20 *of approved continuing education in, or relevant to, educational*
21 *psychology.*

22 (b) *Notwithstanding subdivision (a), a licensee who possesses*
23 *a current general pupil personnel services credential issued on*
24 *or after July 1, 1994, shall be exempt from the continuing*
25 *education requirement.*

26 (c) (1) *The continuing education shall be obtained from either*
27 *an accredited university or a continuing education provider*
28 *approved by the board.*

29 (2) *The board shall establish, by regulation, a procedure for*
30 *approving providers of continuing education courses, and all*
31 *providers of continuing education shall comply with procedures*
32 *established by the board. The board may revoke or deny the right*
33 *of a provider to offer continuing education coursework pursuant*
34 *to this section for failure to comply with the requirements of this*
35 *section or any regulation adopted pursuant to this section.*

36 (d) *Training, education, and coursework by approved*
37 *providers shall incorporate one or more of the following:*

38 (1) *Aspects of the discipline that are fundamental to the*
39 *understanding or the practice of educational psychology.*

1 (2) *Aspects of the discipline of educational psychology in*
2 *which significant recent developments have occurred.*

3 (3) *Aspects of other disciplines that enhance the*
4 *understanding or the practice of educational psychology.*

5 (e) *The board may audit the records of a licensee to verify*
6 *completion of the continuing education requirement. A licensee*
7 *shall maintain records of the completion of required continuing*
8 *education coursework for a minimum of two years and shall*
9 *make these records available to the board for auditing purposes*
10 *upon its request.*

11 (f) *The board may establish exceptions from the continuing*
12 *education requirements of this section for good cause, as*
13 *determined by the board.*

14 (g) *The board shall, by regulation, fund the administration of*
15 *this section through continuing education provider fees to be*
16 *deposited in the Behavioral Sciences Fund. The amount of the*
17 *fees shall be sufficient to meet, but shall not exceed, the costs of*
18 *administering this section.*

19 (h) *The continuing education requirements of this section shall*
20 *comply fully with the guidelines for mandatory continuing*
21 *education established by the Department of Consumer Affairs*
22 *pursuant to Section 166.*

23 4989.36. *A licensee may renew a license that has expired at*
24 *any time within five years after its expiration date by taking all of*
25 *the actions described in Section 4989.32.*

26 4989.38. *A suspended license is subject to expiration as*
27 *provided in this article and may be renewed, following the period*
28 *of suspension, if the licensee takes all of the actions described in*
29 *Section 4989.32.*

30 4989.40. *A revoked license is subject to expiration as*
31 *provided in this article and shall not be renewed. The applicant*
32 *may apply to the board for reinstatement of his or her license*
33 *and shall pay a reinstatement fee in an amount equal to the*
34 *renewal fee in effect at that time and any delinquency fees that*
35 *may have accrued and comply with other requirements of the*
36 *board for reinstatement.*

37 4989.42. *A license that is not renewed within five years after*
38 *its expiration may not be renewed, restored, reinstated, or*
39 *reissued thereafter. A licensee may apply for a new license if he*
40 *or she satisfies all of the following requirements:*

1 (a) No fact, circumstance, or condition exists that, if the
2 license were issued, would constitute grounds for its revocation
3 or suspension.

4 (b) Payment of the fees that would be required if he or she
5 were applying for a license for the first time.

6 (c) Passage of the current licensure examination.

7 4989.44. (a) A licensee may apply to the board to request
8 that his or her license be placed on inactive status.

9 (b) A licensee on inactive status shall be subject to this
10 chapter and shall not engage in the practice of educational
11 psychology in this state.

12 (c) A licensee who holds an inactive license shall pay a
13 biennial fee of one-half of the amount of the standard renewal
14 fee.

15 (d) A licensee on inactive status who has not committed an act
16 or crime constituting grounds for denial of licensure may, upon
17 request, restore his or her license to practice educational
18 psychology to active status. A licensee requesting that his or her
19 license be placed on active status between renewal cycles shall
20 pay the remaining one-half of his or her renewal fee. A licensee
21 requesting to restore his or her license to active status, whose
22 license will expire less than one year from the date of the request,
23 shall complete 30 hours of continuing education as specified in
24 Section 4989.34. A licensee requesting to restore his or her
25 license to active status, whose license will expire more than one
26 year from the date of the request, shall complete 60 hours of
27 continuing education as specified in Section 4989.34.

28 29 Article 4. Regulation 30

31 4989.46. A licensee shall give written notice to the board of a
32 name change within 30 days after each change, providing both
33 the old and new names. A copy of the legal document authorizing
34 the name change, such as a court order or marriage certificate,
35 shall be submitted with the notice.

36 4989.48. A licensee shall display his or her license in a
37 conspicuous place in the licensee's primary place of practice.

38 4989.50. Except as authorized by this chapter, it is unlawful
39 for any person to practice educational psychology or use any
40 title or letters that imply that he or she is a licensed educational

1 *psychologist unless, at the time of so doing, he or she holds a*
2 *valid, unexpired, and unrevoked license issued under this*
3 *chapter.*

4 *4989.52. All consideration, compensation, or remuneration*
5 *received by the licensee shall be in relation to professional*
6 *counseling services actually provided by the licensee. Nothing in*
7 *this section shall prevent collaboration among two or more*
8 *licensees in a case. However, no fee shall be charged for that*
9 *collaboration, except when disclosure of the fee has been made*
10 *to the client.*

11
12 *Article 5. Enforcement*
13

14 *4989.54. The board may deny a license or may suspend or*
15 *revoke the license of a licensee if he or she has been guilty of*
16 *unprofessional conduct. Unprofessional conduct includes, but is*
17 *not limited to, the following:*

18 *(a) Conviction of a crime substantially related to the*
19 *qualifications, functions and duties of an educational*
20 *psychologist.*

21 *(1) The record of conviction shall be conclusive evidence only*
22 *of the fact that the conviction occurred.*

23 *(2) The board may inquire into the circumstances surrounding*
24 *the commission of the crime in order to fix the degree of*
25 *discipline or to determine if the conviction is substantially*
26 *related to the qualifications, functions, or duties of a licensee*
27 *under this chapter.*

28 *(3) A plea or verdict of guilty or a conviction following a plea*
29 *of nolo contendere made to a charge substantially related to the*
30 *qualifications, functions, or duties of a licensee under this*
31 *chapter shall be deemed to be a conviction within the meaning of*
32 *this section.*

33 *(4) The board may order a license suspended or revoked, or*
34 *may decline to issue a license when the time for appeal has*
35 *elapsed, or the judgment of conviction has been affirmed on*
36 *appeal, or when an order granting probation is made suspending*
37 *the imposition of sentence, irrespective of a subsequent order*
38 *under Section 1203.4 of the Penal Code allowing the person to*
39 *withdraw a plea of guilty and enter a plea of not guilty or setting*

1 *aside the verdict of guilty or dismissing the accusation,*
2 *information, or indictment.*

3 *(b) Securing a license by fraud, deceit, or misrepresentation*
4 *on an application for licensure submitted to the board, whether*
5 *engaged in by an applicant for a license or by a licensee in*
6 *support of an application for licensure.*

7 *(c) Administering to himself or herself a controlled substance*
8 *or using any of the dangerous drugs specified in Section 4022 or*
9 *an alcoholic beverage to the extent, or in a manner, as to be*
10 *dangerous or injurious to himself or herself or to any other*
11 *person or to the public or to the extent that the use impairs his or*
12 *her ability to safely perform the functions authorized by the*
13 *license.*

14 *(d) Conviction of more than one misdemeanor or any felony*
15 *involving the use, consumption, or self-administration of any of*
16 *the substances referred to in subdivision (c) or any combination*
17 *thereof.*

18 *(e) Advertising in a manner that is false, misleading, or*
19 *deceptive.*

20 *(f) Violating, attempting to violate, or conspiring to violate*
21 *any of the provisions of this chapter or any regulation adopted by*
22 *the board.*

23 *(g) Commission of any dishonest, corrupt, or fraudulent act*
24 *substantially related to the qualifications, functions, or duties of*
25 *a licensee.*

26 *(h) Denial of licensure, revocation, suspension, restriction, or*
27 *any other disciplinary action imposed by another state or*
28 *territory or possession of the United States or by any other*
29 *governmental agency, on a license, certificate, or registration to*
30 *practice educational psychology or any other healing art. A*
31 *certified copy of the disciplinary action, decision, or judgment*
32 *shall be conclusive evidence of that action.*

33 *(i) Revocation, suspension, or restriction by the board of a*
34 *license, certificate, or registration to practice as a clinical social*
35 *worker or marriage and family therapist.*

36 *(j) Failure to keep records consistent with sound clinical*
37 *judgment, the standards of the profession, and the nature of the*
38 *services being rendered.*

39 *(k) Gross negligence or incompetence in the practice of*
40 *educational psychology.*

1 (l) *Misrepresentation as to the type or status of a license held*
2 *by the licensee or otherwise misrepresenting or permitting*
3 *misrepresentation of his or her education, professional*
4 *qualifications, or professional affiliations to any person or entity.*

5 (m) *Intentionally or recklessly causing physical or emotional*
6 *harm to any client.*

7 (n) *Engaging in sexual relations with a client or a former*
8 *client within two years following termination of professional*
9 *services, soliciting sexual relations with a client, or committing*
10 *an act of sexual abuse or sexual misconduct with a client or*
11 *committing an act punishable as a sexually related crime, if that*
12 *act or solicitation is substantially related to the qualifications,*
13 *functions, or duties of a licensed educational psychologist.*

14 (o) *Prior to the commencement of treatment, failing to disclose*
15 *to the client or prospective client the fee to be charged for the*
16 *professional services or the basis upon which that fee will be*
17 *computed.*

18 (p) *Paying, accepting, or soliciting any consideration,*
19 *compensation, or remuneration, whether monetary or otherwise,*
20 *for the referral of professional clients.*

21 (q) *Failing to maintain confidentiality, except as otherwise*
22 *required or permitted by law, of all information that has been*
23 *received from a client in confidence during the course of*
24 *treatment and all information about the client that is obtained*
25 *from tests or other means.*

26 (r) *Performing, holding himself or herself out as being able to*
27 *perform, or offering to perform any professional services beyond*
28 *the scope of the license authorized by this chapter or beyond his*
29 *or her field or fields of competence as established by his or her*
30 *education, training, or experience.*

31 (s) *Reproducing or describing in public, or in any publication*
32 *subject to general public distribution, any psychological test or*
33 *other assessment device the value of which depends in whole or*
34 *in part on the naivete of the subject in ways that might invalidate*
35 *the test or device. An educational psychologist shall limit access*
36 *to the test or device to persons with professional interests who*
37 *can be expected to safeguard its use.*

38 (t) *Aiding or abetting an unlicensed person to engage in*
39 *conduct requiring a license under this chapter.*

1 (u) When employed by another person or agency,
2 encouraging, either orally or in writing, the employer's or
3 agency's clientele to utilize his or her private practice for further
4 counseling without the approval of the employing agency or
5 administration.

6 (v) Failing to comply with the child abuse reporting
7 requirements of Section 11166 of the Penal Code.

8 (w) Failing to comply with the elder and adult dependent
9 abuse reporting requirements Section 15630 of the Welfare and
10 Institutions Code.

11 4989.56. The board shall revoke the license of a licensee,
12 other than one who is also licensed as a physician and surgeon,
13 who uses or offers to use drugs in the course of his or her
14 practice as an educational psychologist.

15 4989.58. The board shall revoke the license of a licensee
16 upon a decision that contains a finding of fact that the licensee
17 engaged in an act of sexual contact, as defined in Section 729,
18 when that act is with a client, or with a former client and the
19 relationship was terminated primarily because of engaging in
20 that act. The revocation shall not be stayed by the administrative
21 law judge or the board.

22 4989.60. A person whose license has been suspended or
23 revoked shall not, until the reinstatement of his or her license,
24 engage in any activity to which the license relates or any other
25 activity or conduct in violation of the order or judgment by which
26 the license was suspended.

27 4989.62. All proceedings by the board to suspend, revoke, or
28 to take other disciplinary action against a licensee shall be
29 conducted pursuant to Chapter 5 (commencing with Section
30 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

31 4989.64. In addition to other proceedings provided for in this
32 chapter, whenever a person has engaged, or is about to engage,
33 in an act or practice that constitutes, or will constitute, an
34 offense against this chapter, the superior court in and for the
35 county where the act or practice takes place, or is about to take
36 place, may issue an injunction, or other appropriate order,
37 restraining that conduct on application of the board, the Attorney
38 General, or the district attorney of the county. The proceedings
39 under this section shall be governed by Chapter 3 (commencing

1 with Section 525) of Title 7 of Part 2 of the Code of Civil
2 Procedure.

3 4989.66. A person who violates any of the provisions of this
4 chapter is guilty of a misdemeanor.

5
6 Article 6. Revenue
7

8 4989.68. (a) The board shall assess the following fees
9 relating to the licensure of educational psychologists:

10 (1) The application fee for initial licensure shall be a
11 maximum amount of one hundred dollars (\$100).

12 (2) The fee for issuance of the initial license shall be a
13 maximum amount of one hundred fifty dollars (\$150).

14 (3) The fee for license renewal shall be a maximum amount of
15 one hundred fifty dollars (\$150).

16 (4) The delinquency fee shall be a maximum amount of
17 seventy-five dollars (\$75). A person who permits his or her
18 license to become delinquent may have it restored only upon
19 payment of all the fees that he or she would have paid if the
20 license had not become delinquent, plus the payment of any and
21 all delinquency fees.

22 (5) The written examination fee shall be a maximum amount of
23 one hundred dollars (\$100). An applicant who fails to appear for
24 an examination, once having been scheduled, shall forfeit any
25 examination fees he or she paid.

26 (6) The fee for rescoring a written examination shall be twenty
27 dollars (\$20).

28 (7) The fee for issuance of a replacement registration, license,
29 or certificate shall be twenty dollars (\$20).

30 (8) The fee for issuance of a certificate or letter of good
31 standing shall be twenty-five dollars (\$25).

32 (b) With regard to all license, examination, and other fees, the
33 board shall establish fee amounts at or below the maximum
34 amounts specified in this chapter.

35 4989.70. The board shall report each month to the
36 Controller, the amount and source of all revenue received
37 pursuant to this chapter and at the same time pay the entire
38 amount thereof into the State Treasury for credit to the
39 Behavioral Sciences Fund.
40

1 *SEC. 14. Chapter 13.7 (commencing with Section 4990) is*
2 *added to Division 2 of the Business and Professions Code, to*
3 *read:*

4
5 *CHAPTER 13.7. BOARD OF BEHAVIORAL SCIENCES*

6
7 *Article 1. Administration*

8
9 4990. (a) *There is in the Department of Consumer Affairs, a*
10 *Board of Behavioral Sciences that consists of 11 members*
11 *composed as follows:*

12 (1) *Two state-licensed clinical social workers.*

13 (2) *One state-licensed educational psychologist.*

14 (3) *Two state-licensed marriage and family therapists.*

15 (4) *Six public members.*

16 (b) *Each member, except the six public members, shall have at*
17 *least two years of experience in his or her profession.*

18 (c) *Each member shall reside in the State of California.*

19 (d) *The Governor shall appoint four of the public members*
20 *and the five licensed members with the advice and consent of the*
21 *Senate. The Senate Committee on Rules and the Speaker of the*
22 *Assembly shall each appoint a public member.*

23 (e) *Each member of the board shall be appointed for a term of*
24 *four years. A member appointed by the Speaker of the Assembly*
25 *or the Senate Committee on Rules shall hold office until the*
26 *appointment and qualification of his or her successor or until*
27 *one year from the expiration date of the term for which he or she*
28 *was appointed, whichever first occurs. Pursuant to Section 1774*
29 *of the Government Code, a member appointed by the Governor*
30 *shall hold office until the appointment and qualification of his or*
31 *her successor or until 60 days from the expiration date of the*
32 *term for which he or she was appointed, whichever first occurs.*

33 (f) *A vacancy on the board shall be filled by appointment for*
34 *the unexpired term by the authority who appointed the member*
35 *whose membership was vacated.*

36 (g) *Not later than the first of June of each calendar year, the*
37 *board shall elect a chairperson and a vice chairperson from its*
38 *membership.*

39 (h) *Each member of the board shall receive a per diem and*
40 *reimbursement of expenses as provided in Section 103.*

1 (i) *This section shall become inoperative on July 1, 2008, and,*
2 *as of January 1, 2009, is repealed, unless a later enacted statute,*
3 *that is enacted before January 1, 2009, deletes or extends the*
4 *dates on which it becomes inoperative and is repealed.*

5 4990.02. “Board,” as used in this chapter, Chapter 13
6 (commencing with Section 4980), Chapter 13.5 (commencing
7 with Section 4989.10), and Chapter 14 (commencing with
8 Section 4991) means the Board of Behavioral Sciences.

9 4990.04. (a) *The board shall appoint an executive officer.*
10 *This position is designated as a confidential position and is*
11 *exempt from civil service under subdivision (e) of Section 4 of*
12 *Article VII of the California Constitution.*

13 (b) *The executive officer serves at the pleasure of the board.*

14 (c) *The executive officer shall exercise the powers and*
15 *perform the duties delegated by the board and vested in him or*
16 *her by this chapter.*

17 (d) *With the approval of the director, the board shall fix the*
18 *salary of the executive officer.*

19 (e) *The chairperson and executive officer may call meetings of*
20 *the board and any duly appointed committee at a specified time*
21 *and place. For purposes of this section, “call meetings” means*
22 *setting the agenda, time, date, or place for any meeting of the*
23 *board or any committee.*

24 (f) *This section shall become inoperative on July 1, 2008, and,*
25 *as of January 1, 2009, is repealed, unless a later enacted statute,*
26 *that is enacted before January 1, 2009, deletes or extends the*
27 *dates on which it becomes inoperative and is repealed.*

28 4990.06. *Subject to the State Civil Service Act (Part 2*
29 *commencing with Section 18500) of Division 5 of Title 2 of the*
30 *Government Code) and except as provided by Sections 155, 156,*
31 *and 159.5, the board may employ any clerical, technical, and*
32 *other personnel as it deems necessary to carry out the provisions*
33 *of this chapter and the other chapters it administers and*
34 *enforces, within budget limitations.*

35 4990.08. *The board shall keep an accurate record of all of its*
36 *proceedings and a record of all applicants for licensure and all*
37 *individuals to whom it has issued a license.*

38 4990.10. *The board may conduct research in, and make*
39 *studies of problems involved in, the maintaining of professional*

1 standards among those engaged in the professions it licenses and
2 may publish its recommendations thereon.

3 4990.12. The duty of administering and enforcing this
4 chapter, Chapter 13 (commencing with Section 4980), Chapter
5 13.5 (commencing with Section 4989.10.), and Chapter 14
6 (commencing with Section 4991) is vested in the board and the
7 executive officer subject to, and under the direction of, the board.
8 In the performance of this duty, the board and the executive
9 officer have all the powers and are subject to all the
10 responsibilities vested in, and imposed upon, the head of a
11 department by Chapter 2 (commencing with Section 11150) of
12 Part 1 of Division 3 of Title 2 of the Government Code.

13 4990.14. The board shall have and use a seal bearing the
14 words "The Board of Behavioral Sciences," and shall otherwise
15 conform to Section 107.5.

16 4990.16. Protection of the public shall be the highest priority
17 for the board in exercising its licensing, regulatory, and
18 disciplinary functions. Whenever the protection of the public is
19 inconsistent with other interests sought to be promoted, the
20 protection of the public shall be paramount.

21 4990.18. It is the intent of the Legislature that the board
22 employ its resources for each and all of the following functions:

23 (a) The licensure of marriage and family therapists, clinical
24 social workers, and educational psychologists.

25 (b) The development and administration of licensure
26 examinations and examination procedures consistent with
27 prevailing standards for the validation and use of licensing and
28 certification tests. Examinations shall measure knowledge and
29 abilities demonstrably important to the safe, effective practice of
30 the profession.

31 (c) Enforcement of laws designed to protect the public from
32 incompetent, unethical, or unprofessional practitioners.

33 (d) Consumer education.

34 4990.20. (a) The board may adopt rules and regulations as
35 necessary to administer and enforce the provisions of this
36 chapter and the other chapters it administers and enforces. The
37 adoption, amendment, or repeal of those rules and regulations
38 shall be made in accordance with Chapter 3.5 (commencing with
39 Section 11340) of Part 1 of Division 3 of Title 2 of the
40 Government Code.

1 (b) The board may formulate and enforce rules and
2 regulations requiring the following.

3 (1) That the articles of incorporation or bylaws of a marriage
4 and family therapist or licensed clinical social worker
5 corporation include a provision whereby the capital stock of that
6 corporation owned by a disqualified person, as defined in the
7 Moscone-Knox Professional Corporation Act (Part 4
8 (commencing with Section 13400) of Division 3 of Title 1 of the
9 Corporations Code), or a deceased person shall be sold to the
10 corporation or to the remaining shareholders of that corporation
11 within the time that the rules and regulations may provide.

12 (2) That a marriage and family therapist corporation or a
13 licensed clinical social worker corporation shall provide
14 adequate security by insurance or otherwise for claims against it
15 by its patients arising out of the rendering of professional
16 services.

17 4990.22. (a) Notwithstanding Section 13340 of the
18 Government Code, and except as provided in Section 207, the
19 funds in the Behavioral Sciences Fund are continuously
20 appropriated, without regard to fiscal years, to the board for
21 carrying out and enforcing the provisions of this chapter and the
22 other chapters it administers and enforces.

23 (b) The board shall keep records that reasonably ensure that
24 funds expended in the administration of each licensure or
25 registration category shall bear a reasonable relation to the
26 revenue derived from each category and report to the department
27 no later than May 31 of each year on those expenditures.

28 (c) Surpluses, if any, may be used by the board in a manner
29 that bears a reasonable relation to the revenue derived from
30 each licensure or registration category and may include, but not
31 be limited to, expenditures for education and research related to
32 each of the licensing or registration categories.

33 4990.24. The powers and duties of the board, as set forth in
34 this chapter, shall be subject to the review required by Division
35 1.2 (commencing with Section 473).

36 4990.26. Wherever "Board of Behavioral Science
37 Examiners," "Board of Social Work Examiners of the State of
38 California," or "Social Worker and Marriage Counselor
39 Qualifications Board of the State of California" is used in any

1 *law or regulations of this state, it shall mean the Board of*
2 *Behavioral Sciences.*

3
4 *Article 2. Disciplinary Actions*
5

6 *4990.28. The board may refuse to issue a registration or*
7 *license under the chapters it administers and enforces whenever*
8 *it appears that the applicant may be unable to practice his or her*
9 *profession safely due to mental illness or chemical dependency.*
10 *The procedures set forth in Article 12.5 (commencing with*
11 *Section 820) of Chapter 1 shall apply to denial of a license or*
12 *registration pursuant to this section.*

13 *4990.30. (a) A licensed marriage and family therapist,*
14 *marriage and family therapist intern, licensed clinical social*
15 *worker, associate clinical social worker, or licensed educational*
16 *psychologist whose license or registration has been revoked,*
17 *suspended, or placed on probation, may petition the board for*
18 *reinstatement or modification of the penalty, including*
19 *modification or termination of probation. The petition shall be on*
20 *a form provided by the board and shall state any facts and*
21 *information as may be required by the board including, but not*
22 *limited to, proof of compliance with the terms and conditions of*
23 *the underlying disciplinary order. The petition shall be verified*
24 *by the petitioner who shall file an original and sufficient copies*
25 *of the petition, together with any supporting documents, for the*
26 *members of the board, the administrative law judge, and the*
27 *Attorney General. The board may delegate to its executive officer*
28 *authority to order investigation of the contents of the petition.*

29 *(b) The licensee or registrant may file the petition on or after*
30 *the expiration of the following timeframes, each of which*
31 *commences on the effective date of the decision ordering the*
32 *disciplinary action or, if the order of the board, or any portion of*
33 *it, is stayed by the board itself or by the superior court, from the*
34 *date the disciplinary action is actually implemented in its*
35 *entirety:*

36 *(1) Three years for reinstatement of a license or registration*
37 *that was revoked for unprofessional conduct, except that the*
38 *board may, in its sole discretion, specify in its revocation order*
39 *that a petition for reinstatement may be filed after two years.*

1 (2) *Two years for early termination of any probation period of*
2 *three years or more.*

3 (3) *One year for modification of a condition, reinstatement of*
4 *a license or registration revoked for mental or physical illness,*
5 *or termination of probation of less than three years.*

6 (c) *The petition may be heard by the board itself or the board*
7 *may assign the petition to an administrative law judge pursuant*
8 *to Section 11512 of the Government Code.*

9 (d) *The board shall give notice to the Attorney General of the*
10 *filing of the petition.*

11 (e) *The petitioner may request that the board schedule the*
12 *hearing on the petition for a board meeting at a specific city*
13 *where the board regularly meets.*

14 (f) *The petitioner and the Attorney General shall be given*
15 *timely notice by letter of the time and place of the hearing on the*
16 *petition and an opportunity to present both oral and*
17 *documentary evidence and argument to the board or the*
18 *administrative law judge.*

19 (g) *The petitioner shall at all times have the burden of*
20 *production and proof to establish by clear and convincing*
21 *evidence that he or she is entitled to the relief sought in the*
22 *petition.*

23 (h) *The board, when it is hearing the petition itself, or an*
24 *administrative law judge sitting for the board, may consider all*
25 *activities of the petitioner since the disciplinary action was taken,*
26 *the offense for which the petitioner was disciplined, the*
27 *petitioner's activities during the time his or her license or*
28 *registration was in good standing, and the petitioner's*
29 *rehabilitative efforts, general reputation for truth, and*
30 *professional ability.*

31 (i) *The hearing may be continued from time to time as the*
32 *board or the administrative law judge deems appropriate but in*
33 *no case may the hearing on the petition be delayed more than*
34 *180 days from its filing without the consent of the petitioner.*

35 (j) *The board itself, or the administrative law judge if one is*
36 *designated by the board, shall hear the petition and shall prepare*
37 *a written decision setting forth the reasons supporting the*
38 *decision. In a decision granting a petition reinstating a license or*
39 *modifying a penalty, the board itself, or the administrative law*
40 *judge, may impose any terms and conditions that the agency*

1 *deems reasonably appropriate, including those set forth in*
2 *Sections 823 and 4990.40. If a petition is heard by an*
3 *administrative law judge sitting alone, the administrative law*
4 *judge shall prepare a proposed decision and submit it to the*
5 *board. The board may take action with respect to the proposed*
6 *decision and petition as it deems appropriate.*

7 *(k) The petitioner shall pay a fingerprinting fee and provide a*
8 *current set of his or her fingerprints to the board. The petitioner*
9 *shall execute a form authorizing release to the board or its*
10 *designee, of all information concerning the petitioner's current*
11 *physical and mental condition. Information provided to the board*
12 *pursuant to the release shall be confidential and shall not be*
13 *subject to discovery or subpoena in any other proceeding, and*
14 *shall not be admissible in any action, other than before the*
15 *board, to determine the petitioner's fitness to practice as*
16 *required by Section 822.*

17 *(l) The board may delegate to its executive officer authority to*
18 *order investigation of the contents of the petition.*

19 *(m) The petitioner may request that the board schedule the*
20 *hearing on the petition for a board meeting at a specific city*
21 *where the board regularly meets.*

22 *(n) No petition shall be considered while the petitioner is*
23 *under sentence for any criminal offense, including any period*
24 *during which the petitioner is on court-imposed probation or*
25 *parole or the petitioner is required to register pursuant to*
26 *Section 290 of the Penal Code. No petition shall be considered*
27 *while there is an accusation or petition to revoke probation*
28 *pending against the petitioner.*

29 *(o) Except in those cases where the petitioner has been*
30 *disciplined for violation of Section 822, the board may in its*
31 *discretion deny without hearing or argument any petition that is*
32 *filed pursuant to this section within a period of two years from*
33 *the effective date of a prior decision following a hearing under*
34 *this section.*

35 *4990.32. The proceedings conducted under this article shall*
36 *be held in accordance with Chapter 5 (commencing with Section*
37 *11500) of Part 1 of Division 3 of Title 2 of the Government Code.*

38 *4990.34. (a) Except as otherwise provided in this section, an*
39 *accusation filed pursuant to Section 11503 of the Government*
40 *Code against a licensee or registrant under the chapters the*

1 *board administers and enforces shall be filed within three years*
2 *from the date the board discovers the alleged act or omission*
3 *that is the basis for disciplinary action or within seven years*
4 *from the date the alleged act or omission that is the basis for*
5 *disciplinary action occurred, whichever occurs first.*

6 *(b) An accusation filed against a licensee alleging the*
7 *procurement of a license by fraud or misrepresentation is not*
8 *subject to the limitations set forth in subdivision (a).*

9 *(c) The limitations period provided by subdivision (a) shall be*
10 *tolled for the length of time required to obtain compliance when*
11 *a report required to be filed by the licensee or registrant with the*
12 *board pursuant to Article 11 (commencing with Section 800) of*
13 *Chapter 1 is not filed in a timely fashion.*

14 *(d) An accusation alleging sexual misconduct shall be filed*
15 *within three years after the board discovers the act or omission*
16 *alleged as the grounds for disciplinary action or within 10 years*
17 *after the act or omission alleged as the grounds for disciplinary*
18 *action occurred, whichever occurs first. This subdivision shall*
19 *apply to a complaint alleging sexual misconduct received by the*
20 *board on and after January 1, 2002.*

21 *(e) If an alleged act or omission involves a minor, the*
22 *seven-year limitations period provided for by subdivision (a) and*
23 *the 10-year limitations period provided for by subdivision (d)*
24 *shall be tolled until the minor reaches the age of majority.*

25 *(f) The limitations period provided by subdivision (a) shall be*
26 *tolled during any period if material evidence necessary for*
27 *prosecuting or determining whether a disciplinary action would*
28 *be appropriate is unavailable to the board due to an ongoing*
29 *criminal investigation.*

30 *(g) For purposes of this section, “discovers” means the latest*
31 *of the occurrence of any of the following with respect to each act*
32 *or omission alleged as the basis for disciplinary action:*

33 *(1) The date the board received a complaint or report*
34 *describing the act or omission.*

35 *(2) The date, subsequent to the original complaint or report,*
36 *on which the board became aware of any additional acts or*
37 *omissions alleged as the basis for disciplinary action against the*
38 *same individual.*

1 (3) *The date the board receives from the complainant a written*
2 *release of information pertaining to the complainant's diagnosis*
3 *and treatment.*

4 4990.36. (a) *The board may place a license or registration*
5 *issued under the chapters it administers and enforces on*
6 *probation under the following circumstances:*

7 (1) *In lieu of, or in addition to, any order of the board*
8 *suspending or revoking the license or registration.*

9 (2) *Upon the issuance of a license or registration to an*
10 *individual who has been guilty of unprofessional conduct but*
11 *who otherwise completed all education, training, and experience*
12 *required for licensure or registration.*

13 (3) *As a condition upon the reissuance or reinstatement of a*
14 *license or registration that has been suspended or revoked by the*
15 *board.*

16 (b) *The board may adopt regulations establishing a*
17 *monitoring program to ensure compliance with any terms or*
18 *conditions of probation imposed by the board pursuant to*
19 *subdivision (a). The cost of probation or monitoring may be*
20 *ordered to be paid by the licensee or registrant.*

21 4990.38. *The board, in its discretion, may require a licensee*
22 *or registrant whose license or registration has been placed on*
23 *probation or whose license or registration has been suspended,*
24 *to obtain additional professional training and to pass an*
25 *examination upon completion of that training and to pay any*
26 *necessary examination fee. The examination may be written,*
27 *oral, or a practical or clinical examination.*

28 4990.40. *The board may deny an application or may suspend*
29 *or revoke a license or registration issued under the chapters it*
30 *administers and enforces for any disciplinary action imposed by*
31 *another state or territory or possession of the United States, or*
32 *by a governmental agency. The disciplinary action, which may*
33 *include denial of licensure or revocation or suspension of the*
34 *license or imposition of restrictions on it, constitutes*
35 *unprofessional conduct. A certified copy of the disciplinary*
36 *action decision or judgment shall be conclusive evidence of that*
37 *action.*

38 4990.42. *The board shall revoke a license or registration*
39 *issued under the chapters it administers and enforces upon a*
40 *decision made in accordance with the procedures set forth in*

Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains a finding of fact that the licensee or registrant engaged in an act of sexual contact, as defined in Section 729, when that act is with a patient or with a former patient when the relationship was terminated primarily for the purpose of engaging in that act. The revocation shall not be stayed by the administrative law judge or the board.

4990.44. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 15. Article 1 (commencing with Section 4990) of Chapter 14 of Division 2 of the Business and Professions Code is repealed.

SEC. 16. Section 4991 is added to the Business and Professions Code, to read:

4991. This chapter shall be known, and may be cited, as the Clinical Social Worker Practice Act. It shall be liberally construed to effect its objectives.

SEC. 17. Section 4991.2 is added to the Business and Professions Code, to read:

4991.2. "Accredited school of social work," within the meaning of this chapter, is a school that is accredited by the Commission on Accreditation of the Council on Social Work Education.

SEC. 18. Section 4992.31 of the Business and Professions Code is repealed.

~~4992.31. (a) Except as provided in subdivisions (b), (c), and (e), any accusation filed against a licensee pursuant to Section 11503 of the Government Code shall be filed within three years from the date the board discovers the alleged act or omission that is the basis for disciplinary action, or within seven years from the date the alleged act or omission that is the basis for disciplinary action occurred, whichever occurs first.~~

~~(b) An accusation filed against a licensee pursuant to Section 11503 of the Government Code alleging the procurement of a license by fraud or misrepresentation is not subject to the limitations set forth in subdivision (a).~~

1 ~~(e) The limitation provided for by subdivision (a) shall be~~
2 ~~tolled for the length of time required to obtain compliance when~~
3 ~~a report required to be filed by the licensee or registrant with the~~
4 ~~board pursuant to Article 11 (commencing with Section 800) of~~
5 ~~Chapter 1 is not filed in a timely fashion.~~

6 ~~(d) If an alleged act or omission involves a minor, the~~
7 ~~seven-year limitations period provided for by subdivision (a) and~~
8 ~~the 10-year limitations period provided for by subdivision (e)~~
9 ~~shall be tolled until the minor reaches the age of majority.~~

10 ~~(e) An accusation filed against a licensee pursuant to Section~~
11 ~~11503 of the Government Code alleging sexual misconduct shall~~
12 ~~be filed within three years after the board discovers the act or~~
13 ~~omission alleged as the ground for disciplinary action, or within~~
14 ~~10 years after the act or omission alleged as the ground for~~
15 ~~disciplinary action occurs, whichever occurs first. This~~
16 ~~subdivision shall apply to a complaint alleging sexual~~
17 ~~misconduct received by the board on and after January 1, 2002.~~

18 ~~(f) The limitations period provided by subdivision (a) shall be~~
19 ~~tolled during any period if material evidence necessary for~~
20 ~~prosecuting or determining whether a disciplinary action would~~
21 ~~be appropriate is unavailable to the board due to an ongoing~~
22 ~~criminal investigation.~~

23 ~~(g) For purposes of this section, “discovers” means the later of~~
24 ~~the occurrence of any of the following with respect to each act or~~
25 ~~omission alleged as the basis for disciplinary action:~~

26 ~~(1) The date the board received a complaint or report~~
27 ~~describing the act or omission.~~

28 ~~(2) The date, subsequent to the original complaint or report, on~~
29 ~~which the board became aware of any additional acts or~~
30 ~~omissions alleged as the basis for disciplinary action against the~~
31 ~~same individual.~~

32 ~~(3) The date the board receives from the complainant a written~~
33 ~~release of information pertaining to the complainant’s diagnosis~~
34 ~~and treatment.~~

35 *SEC. 19. Section 4994 of the Business and Professions Code*
36 *is amended to read:*

37 *4994. ~~All~~ Notwithstanding Section 13340 of the Government*
38 *Code and except as provided in Section 4984.6, all moneys in the*
39 *Behavioral Sciences Fund shall are continuously appropriated to*

1 *the board, to be expended by the board for the purposes of the*
2 *programs under its jurisdiction.*

3 *SEC. 20. The heading of Article 4 (commencing with Section*
4 *4996) of Chapter 14 of Division 2 of the Business and*
5 *Professions Code is amended to read:*

6
7 Article 4. ~~Clinical Social Workers Licensure~~
8

9 *SEC. 21. Section 4996.17 of the Business and Professions*
10 *Code is amended to read:*

11 4996.17. (a) Experience gained outside of California shall be
12 accepted toward the licensure requirements if it is substantially
13 the equivalent of the requirements of this chapter. The board may
14 issue a license to any person who, at the time of application, has
15 held a valid *active clinical social work* license, issued by a board
16 of clinical social work examiners or corresponding authority of
17 any state, ~~for two years if the education and supervised~~
18 ~~experience requirements are substantially the equivalent of this~~
19 ~~chapter and if the person successfully completes passes~~ the board
20 administered licensing examinations as specified in Section
21 4996.1 and pays the required fees. Issuance of the license is
22 conditioned upon ~~the person's completion of the following~~
23 ~~coursework and training all of the following:~~

24 (1) *The applicant has supervised experience that is*
25 *substantially the equivalent of that required by this chapter. If the*
26 *applicant has less than 3200 hours of qualifying supervised*
27 *experience, time actively licensed as a clinical social worker*
28 *shall be accepted at a rate of 100 hours per month up to a*
29 *maximum of 1200 hours.*

30 (2) *Completion of the following coursework or training in or*
31 *out of this state:*

32 ~~(1)~~

33 (A) A minimum of seven contact hours of training or
34 coursework in child abuse assessment and reporting as specified
35 in Section 28, and any regulations promulgated thereunder.

36 ~~(2)~~

37 (B) A minimum of 10 contact hours of training or coursework
38 in human sexuality as specified in Section 25, and any
39 regulations promulgated thereunder.

40 ~~(3)~~

1 (C) A minimum of 15 contact hours of training or coursework
2 in alcoholism and other chemical substance dependency, as
3 specified by regulation.

4 ~~(4) (A) Instruction in spousal or partner abuse assessment,~~
5 ~~detection, and intervention. This instruction may be taken either~~
6 ~~in fulfillment of other requirements for licensure or in a separate~~
7 ~~course.~~

8 ~~(B)~~

9 ~~(D) On and after January 1, 2004, a~~ A minimum of 15 contact
10 hours of coursework or training in spousal or partner abuse
11 assessment, detection, and intervention strategies.

12 ~~(5) With respect to paragraphs (2), (3), and (4), the board may~~
13 ~~accept training or coursework acquired out of state.~~

14 ~~(b) A person who qualifies for licensure based on experience~~
15 ~~gained outside California may apply for and receive an associate~~
16 ~~registration to practice clinical social work.~~

17 *(3) The applicant's license is not suspended, revoked,*
18 *restricted, sanctioned, or voluntarily surrendered in any state.*

19 *(4) The applicant is not currently under investigation in any*
20 *other state, and has not been charged with an offense for any act*
21 *substantially related to the practice of social work by any public*
22 *agency, entered into any consent agreement or been subject to an*
23 *administrative decision that contains conditions placed by an*
24 *agency upon an applicant's professional conduct or practice,*
25 *including any voluntary surrender of license, or been the subject*
26 *of an adverse judgment resulting from the practice of social work*
27 *that the board determines constitutes evidence of a pattern of*
28 *incompetence or negligence.*

29 *(5) The applicant shall provide a certification from each state*
30 *where he or she holds a license pertaining to licensure,*
31 *disciplinary action, and complaints pending.*

32 *(6) The applicant is not subject to denial of licensure under*
33 *Sections 480, 4992.3, 4992.35, or 4992.36.*

34 *(b) The board may issue a license to any person who, at the*
35 *time of application, has held a valid, active clinical social work*
36 *license for a minimum of four years, issued by a board of clinical*
37 *social work examiners or a corresponding authority of any state,*
38 *if the person passes the board administered licensing*
39 *examinations as specified in Section 4996.1 and pays the*

1 *required fees. Issuance of the license is conditioned upon all of*
2 *the following.*

3 *(1) Completion of the following coursework or training in or*
4 *out of state:*

5 *(A) A minimum of seven contact hours of training or*
6 *coursework in child abuse assessment and reporting as specified*
7 *in Section 28, and any regulations promulgated thereunder.*

8 *(B) A minimum of 10 contact hours of training or coursework*
9 *in human sexuality as specified in Section 25, and any*
10 *regulations promulgated thereunder.*

11 *(C) A minimum of 15 contact hours of training or coursework*
12 *in alcoholism and other chemical substance dependency, as*
13 *specified by regulation.*

14 *(D) A minimum of 15 contact hours of coursework or training*
15 *in spousal or partner abuse assessment, detection, and*
16 *intervention strategies.*

17 *(2) The applicant has been licensed as a clinical social worker*
18 *continuously for a minimum of four years prior to the date of*
19 *application.*

20 *(3) The applicant's license is not suspended, revoked,*
21 *restricted, sanctioned, or voluntarily surrendered in any state.*

22 *(4) The applicant is not currently under investigation in any*
23 *other state, and has not been charged with an offense for any act*
24 *substantially related to the practice of social work by any public*
25 *agency, entered into any consent agreement or been subject to an*
26 *administrative decision that contains conditions placed by an*
27 *agency upon an applicant's professional conduct or practice,*
28 *including any voluntary surrender of license, or been the subject*
29 *of an adverse judgment resulting from the practice of social work*
30 *that the board determines constitutes evidence of a pattern of*
31 *incompetence or negligence.*

32 *(5) The applicant provides a certification from each state*
33 *where he or she holds a license pertaining to licensure,*
34 *disciplinary action, and complaints pending.*

35 *(6) The applicant is not subject to denial of licensure under*
36 *Section 480, 4992.3, 4992.35, or 4992.36.*

37 *SEC. 22. Section 4998.6 of the Business and Professions*
38 *Code is repealed.*

39 ~~4998.6. The board may formulate and enforce rules and~~
40 ~~regulations to carry out the purposes and objectives of this~~

1 article, including rules and regulations requiring (a) that the
2 articles of incorporation or bylaws of a licensed clinical social
3 worker corporation shall include a provision whereby the capital
4 stock of that corporation owned by a disqualified person, as
5 defined in the Moscone-Knox Professional Corporation Act, or a
6 deceased person shall be sold to the corporation or to the
7 remaining shareholders of that corporation within the time that
8 the rules and regulations may provide, and (b) that a licensed
9 clinical social worker corporation shall provide adequate security
10 by insurance or otherwise for claims against it by its patients
11 arising out of the rendering of professional services.

12 *SEC. 23. Section 4999 of the Business and Professions Code*
13 *is amended to read:*

14 4999. (a) ~~On and after January 1, 2000, no~~ Any business
15 entity that employs, or contracts or subcontracts, directly or
16 indirectly, with, the full-time equivalent of five or more persons
17 functioning as health care professionals, whose primary function
18 is to provide telephone medical advice, ~~shall engage in the~~
19 ~~business of providing~~ *that provides* telephone medical advice
20 services to a patient at a California address ~~unless the business is~~
21 *shall be* registered with the Telephone Medical Advice Services
22 Bureau. ~~The department may adopt emergency regulations~~
23 ~~further defining when a health care professional's primary~~
24 ~~function is providing telephone medical advice.~~

25 (b) ~~Any business entity required to be registered under~~
26 ~~subdivision (a) that submits proof of accreditation by the~~
27 ~~American Accreditation Healthcare Commission, URAC, the~~
28 ~~National Committee for Quality Assurance, the National Quality~~
29 ~~Health Council, or the Joint Commission on Accreditation of~~
30 ~~Healthcare Organizations shall be deemed provisionally~~
31 ~~registered by the bureau until the earlier of the following:~~

32 (1) ~~December 31, 2000.~~

33 (2) ~~The granting or denial of an application for registration~~
34 ~~pursuant to subdivision (a).~~

35 (c)

36 (b) A medical group that operates in multiple locations in
37 California shall not be required to register pursuant to this section
38 if no more than five full-time equivalent persons at any one
39 location perform telephone medical advice services and those

Item XI

Blank Page

Memorandum

To: Policy and Advocacy Committee

Date: June 19, 2006

From: Christy Berger
Legislation Analyst

Telephone: (916) 574-7847

Subject: Examination Time Frames and Abandonment of Licensure Applications

Background

In the past, the Board issued filing deadlines for oral examination applications. The Board no longer administers an oral examination, although the ability to set application filing deadlines is still permitted by Title 16, California Code of Regulations (CCR), Section 1805(b). This regulation is no longer needed.

The Board now administers examinations on a continuous basis, and implements new examination versions approximately once every six months. In order to ensure that applicants retaking an examination take a different version of an examination, the Board requires a 160- to 180-day waiting period between examination attempts. This waiting period is not required by law, though the Board has a strong legal rationale for the waiting period. This waiting period should be formalized in law.

Additionally, applicants are required to take an examination within certain time frames (typically one year) or their application becomes “abandoned.” When an application is abandoned, it is considered closed and the applicant must reapply should he or she wish to continue pursuing licensure. This new application requires the applicant to meet all current requirements and to pay the application fee.

The intent is to provide all candidates with a one-year period in which to take an examination, prior to considering the application abandoned. However, staff has discovered that there are conflicting laws regarding this one-year time period that may actually provide some candidates with more than one year.

Discussion

CCR Section 1806(c) requires candidates to take an examination within one year of notification of eligibility to take the examination. CCR Section 1833, and Business and Professions Code (BPC) Sections 4986.80(f) and 4996.4¹ require an applicant who fails an examination to retake that examination within one year from the date of the failure.

CCR Section 1806(c) is intended to apply only to first-time applicants for the standard written examination and first-time applicants for the clinical vignette (CV) examination. Staff has been applying the regulation in this manner. Once an applicant has failed an examination, the law requiring a candidate to take the examination within one year from the date of the failure applies. However, when a candidate fails an examination, he or she also receives a notice of eligibility at 160 to 180 days from the date of the failure. In this case, both laws apply.

¹ Title 16, CCR Section 1833 (Marriage and Family Therapist applicants), BPC Sections 4986.80(f) (Licensed Educational Psychologist applicants) and 4996.4 (Licensed Clinical Social Worker applicants)

The following examples are intended to illustrate the experience of examination candidates with the potential for application abandonment at different times in the examination process. It also indicates where laws regarding abandonment conflict.

Candidate A has just received notice that she is eligible for the first time to take the Standard Written examination. Candidate A has one year from the date of this notice of eligibility in which to take the examination. [No conflict here.]

Candidate B has just passed the Standard Written examination, and has received notice that he is eligible to take the Clinical Vignette (CV) examination. Candidate B receives his notice of eligibility to take the CV examination on the same day that he passed the Standard Written examination. Candidate B has one year from the date of his notice of eligibility to take the CV examination. [However, Candidate B also receives a “notice of eligibility” when he receives the candidate handbook from Thomson Prometric. This could buy him almost another year in which to take the examination.]

Candidate C has just failed the Standard Written examination. Candidate C receives notice that he failed the examination on the same day he takes the examination. This notice informs him that he has one year in which to retake the examination, and that he must wait 160 to 180 days between attempts. Candidate C files his application for re-examination, and at 175 days, receives a new candidate handbook informing him that he is now eligible to retake the examination. [Candidate C has a similar problem to Candidate B – which law applies to him? Must he retake the examination within one year of failing it, or within one year from receiving his notice of eligibility?]

Because CCR Section 1806 does not specify that it applies only to first-time candidates, and because an applicant is sent a notice of eligibility each time he or she becomes eligible, including after failing an examination, both laws apply in certain situations.

An applicant is notified of eligibility to take either the standard written or clinical vignette examination at the following times:

1. Upon approval of an application for licensure.
2. Upon approval of an application for examination.
3. When an applicant’s 160- to 180-day waiting period has elapsed, after approval of an application for examination.

Additionally, the requirement that applicants take an examination no more than two times in a 12-month period and the 160 to 180-day waiting period should be formalized in regulation.

Recommendation

Pursue a regulatory change to update Sections 1805 and 1806.

Attachment

Applicable Laws

Proposed Language Sections 1805 and 1806

Attachment A

Blank Page

BOARD OF BEHAVIORAL SCIENCES
Applicable Law Re: Abandonment of Applications

LEP – Business and Professions Code § 4986.80(f)

- (f) The fee for each reexamination shall be the fee for each examination specified in subdivision (e). An applicant who has failed the written examination may within one year from the notification date of failure, retake that examination as regularly scheduled without further application. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required. Persons failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

LCSW - Business and Professions Code § 4996.4

Notwithstanding Section 4996.3, an applicant who has failed any standard or clinical vignette written examination may apply for reexamination upon payment of the fee of up to one hundred fifty dollars (\$150) including the examination fee and related administrative costs. An applicant who fails a standard or clinical vignette written examination may within one year from the notification date of failure, retake that examination as regularly scheduled, without further application, upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required. Applicants failing to appear for reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

MFT – Title 16, California Code of Regulations § 1833.3

An applicant who fails any examination may within one (1) year from the date of that failure retake that examination as regularly scheduled without further application upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination unless a new application is filed, meeting all requirements, and required fees are paid.

Blank Page

Attachment B

Blank Page

BOARD OF BEHAVIORAL SCIENCES
Proposed Language

Title 16, California Code of Regulations
Sections 1805, 1806 and 1833.3

Amend § 1805 as follows:

(a) Applications submitted to the board for registration or licensure shall be on a form prescribed by the board.

~~(b) The board may issue final filing dates for all examinations not to exceed ninety (90) days prior to any examination. An applicant who fails to submit a complete examination application to the board by a final filing date shall not be eligible for that examination and his or her application shall be considered abandoned if it meets the criteria in Section 1806(c).~~

(b) A 180-day waiting period is required between examinations for any applicant retaking an examination.

Amend § 1806 as follows:

An application shall be deemed abandoned if under any of the following circumstances:

(a) The application has not been completed by the applicant within one (1) year after it has been filed. An application shall be deemed complete when all documents and information required have been submitted to the ~~board~~; or board.

(b) The applicant does not submit information showing that he or she has corrected the deficiencies specified in a deficiency letter within one (1) year from the date of the deficiency ~~letter~~; or letter.

(c) The applicant fails to sit for examination within one (1) year after ~~being notified of eligibility; or being notified of eligibility for the first time to take either of the following:~~

(1) Standard written examination.

(2) Clinical vignette examination.

(d) An applicant fails to retake an examination within one year from the date the applicant was notified of the failure.

~~(d)~~ (e) The applicant fails to pay the initial license fee within one (1) year after notification by the board of successful completion of examination requirements.

An application submitted ~~subsequent to the abandonment of a prior application~~ after an application has been abandoned shall be treated as a new application. application, including any fees required, and current requirements.

Delete § 1833.3 as follows:

~~An applicant who fails any examination may within one (1) year from the date of that failure retake that examination as regularly scheduled without further application upon payment of the required examination fees. Thereafter, the applicant shall not be eligible for further examination unless a new application is filed, meeting all requirements, and required fees are paid.~~